

OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

NATIONAL LABOR RELATIONS BOARD

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REGION 3

In the Matter of:

Starbucks Corporation,

Employer,

and

Workers United,

Union.

Case Nos.

03-CA-285671 03-CA-290555

03-CA-291157 03-CA-291196

03-CA-291197 03-CA-291199

03-CA-291202 03-CA-291377

03-CA-291378 03-CA-291379

03-CA-291381 03-CA-291386

03-CA-291395 03-CA-291399

03-CA-291408 03-CA-291412

03-CA-291416 03-CA-291418

03-CA-291423 03-CA-291431

03-CA-291434 03-CA-291725

03-CA-292284 03-CA-293362

03-CA-293469 03-CA-293489

03-CA-293528 03-CA-294336

03-CA-293546 03-CA-294341

03-CA-294303 03-CA-206200

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UNITED STATES OF AMERICA
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The above-entitled matter came on for hearing, pursuant to notice, before **MICHAEL A. ROSAS**, Administrative Law Judge, at the Robert H. Jackson United States Courthouse, 2 Niagara Square, Wyoming Courtroom, 5th Floor, Buffalo, New York 142202, on **Thursday, August 4, 2022, 9:02 a.m.**



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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
Mikaela Jazlyn Brisack	1589	1596	1605		
Edwin Park	1607, 1650 1622, 1650 1657	1660	1674		
Iliana Gomez	1677	1704			
Vianca Colon	1710	1728			1716
Nicole Morton	1734	1749			
Natalie Wittmeyer	1756	1771			

E X H I B I T S

<u>EXHIBIT</u>	<u>IDENTIFIED</u>	<u>IN EVIDENCE</u>
General Counsel:		
GC-114 (a)	1591	1591
GC-114 (b)	1591	1591
GC-115 (a)	1591	1593
GC-115 (b)	1591	1593
GC-116	1595	1596
GC-124	1621	1634
GC-125	1642	1642
GC-126	1644	1644
GC-127	1649	1650
GC-128	1654	1656
GC-129	1622	1634
GC-130	1714	Rejected
GC-131	1722	1723
GC-132	1743	1745
GC-133 (a)	1770	1771
GC-133 (b)	1770	1771

1 P R O C E E D I N G S

2 MS. PENDER-STANLEY: We were able to review the transcript
3 last night, and counsel did give us a transcript with names
4 identified this morning.

5 We're good with that, Judge.

6 JUDGE ROSAS: Okay. Play ball.

7 MS. PENDER-STANLEY: Okay.

8 Whereupon,

9 MIKAELA JAZLYN BRISACK

10 having been previously sworn, was called as a witness herein
11 and was examined and testified as follows:

12 RESUMED DIRECT EXAMINATION

13 Q BY MS. PENDER-STANLEY: Morning, Jaz.

14 A Good morning.

15 Q Jaz, did you attend the meeting on October 20th, 2021?

16 A I did.

17 Q Where was that meeting held?

18 A That one was at the Wyndham Garden Hotel -- no. Wait,
19 sorry. Not the Wyndham Garden. That was at the Hampton
20 downtown across from Delaware and Chippewa.

21 Q How did you learn about that meeting?

22 A It was also posted in the back, and our manager also told
23 us about it.

24 Q What time was that meeting?

25 A I think I went to the 4 p.m. one.



- 1 Q How many employees from your store were there?
- 2 A About five.
- 3 Q And was any -- anyone from any other stores?
- 4 A No.
- 5 Q Who from corporate was at that meeting?
- 6 A That was Ana Gutierrez, Natalie Coife, and Allyson Peck.
- 7 Q Jaz, did you record that meeting?
- 8 A I did.
- 9 Q How did you record that meeting?
- 10 A On my phone.
- 11 Q Did you record the full meeting?
- 12 A I did.
- 13 Q And what did you do with the recording after the meeting?
- 14 A It stayed on my phone, and then I sent it to the Labor
- 15 Board.
- 16 Q Did you edit that recording in any way?
- 17 A No.
- 18 Q If I were to play it for you, could you identify it?
- 19 A Yes.
- 20 Q Have you ever seen a transcript of that recording?
- 21 A Yes.
- 22 Q And what did you do with that transcript?
- 23 A Compared it to the recording and noted the names that were
- 24 not identified or misidentified.
- 25 MS. PENDER-STANLEY: I would offer General Counsel Exhibit

1 114(a), the audio, and 114(b), the transcript as revised.

2 MS. POLITO: Same standing objection, Your Honor.

3 JUDGE ROSAS: Objection's overruled. General Counsel's
4 Exhibit 114(a) and 114(b) are received.

5 **(General Counsel Exhibit Numbers 114(a) and 114(b) Received**
6 **into Evidence)**

7 Q BY MS. PENDER-STANLEY: Jaz, did you attend the meeting on
8 November 8th, 2021?

9 A I did.

10 Q Where was that meeting held?

11 A That was in the Elmwood Cafe.

12 Q What time of day was that?

13 A 8 p.m.

14 Q Was your store closed for the meeting?

15 A It was.

16 Q You didn't reopen after?

17 A No.

18 Q How many employees attended that meeting?

19 A I think about eight.

20 Q And what store were those people from?

21 A All Elmwood.

22 Q Who from Starbucks corporate was there?

23 A There were a lot of them. Kathleen Killian (phonetic
24 throughout) was there. Denise Nelson was there. Michaela
25 Murphy was there. Deanna Pusatier was there. Kelly Roupe was

1 there. Dustin Taylor was there. And there was a name that I
2 couldn't quite make out.

3 Q Did you record that meeting?

4 A I did.

5 Q How did you do that?

6 A On my phone.

7 Q Did you record the full meeting?

8 A Yes.

9 Q What did you do with the recording after your -- the
10 meeting?

11 A It stayed on my phone, and I sent it -- sent it to the
12 Labor Board.

13 Q Did you edit that recording in any way?

14 A I did not.

15 Q If I were to play it for you, could you identify it?

16 A Yes.

17 Q Have you ever seen a transcript of that audio?

18 A Yes.

19 Q What did you do with that transcript?

20 A I compared it to the recording and noted the names.

21 MS. PENDER-STANLEY: I would offer General Counsel Exhibit
22 115(a), the audio, and 115(b), the revised transcript of the
23 November 8th meeting?

24 MS. POLITO: Same standing objection, Your Honor.

25 JUDGE ROSAS: Objection's overruled. General Counsel's

1 115(a) and 115(b) are received.

2 **(General Counsel Exhibit Numbers 115(a) and 115(b) Received**
3 **into Evidence)**

4 Q BY MS. PENDER-STANLEY: Jaz, are you familiar with Cassie
5 Fleischer?

6 A I am.

7 Q How do you know Cassie?

8 A Cassie trained me at Elmwood when I was hired. She was a
9 barista trainer at Elmwood.

10 Q Is Cassie still employed by Starbucks?

11 A No.

12 Q When did Cassie stop working at Starbucks?

13 MS. POLITO: Objection, Your Honor. Ms. Fleischer can
14 come in and testify to all this information. She's just a
15 fellow barista with Ms. Fleischer. There's no reason for her
16 to testify regarding her employment with Starbucks.

17 MS. PENDER-STANLEY: Your Honor, this is foundation.

18 JUDGE ROSAS: I assume you're leading up to something?

19 MS. PENDER-STANLEY: This is the foundation for the --

20 JUDGE ROSAS: Overruled.

21 MS. PENDER-STANLEY: -- supplemented recording.

22 A Sorry. She -- I think she accepted the second job in
23 February, and was told that that would mean she was going to
24 turned from the system. And then she actually was fired in
25 April.

1 Q BY MS. PENDER-STANLEY: How do you know --

2 MS. POLITO: Objection to what Ms. Fleischer was told by
3 the unnamed person. Ask that that be stricken from the record.
4 Again, Ms. Fleischer can come in and testify as to who told her
5 what regarding her employment.

6 JUDGE ROSAS: Okay. So is she going to be testifying?

7 MS. PENDER-STANLEY: She is, yes.

8 JUDGE ROSAS: Okay. So this is -- this is transactional.
9 Is any of this witnessed by --

10 MS. PENDER-STANLEY: Yes.

11 JUDGE ROSAS: Okay. The -- the -- all right. So take a
12 step back. Provide some foundation.

13 Q BY MS. PENDER-STANLEY: Do you know what date Cassie was
14 separated?

15 A I believe April 21st or thereabouts.

16 Q How do you know that?

17 A Because I was there when she got the call.

18 Q Did you hear the call?

19 A I did.

20 Q How did you hear it?

21 A She had the phone on speakerphone. And I was -- we were
22 recording it on my phone.

23 Q Did you record the entire call on your phone?

24 A Yes.

25 Q What did you do with that recording after you made it?

1 A Sent it to the Labor Board.

2 Q Did you alter that recording in any way?

3 A No.

4 Q If I were to play that recording for you, could you
5 identify it for us?

6 A Yes.

7 MS. PENDER-STANLEY: And then I'm going to play General
8 Counsel Exhibit 116. I need to turn the system on. Excuse me.

9 JUDGE ROSAS: Is there going to be a transcript of this?

10 MS. PENDER-STANLEY: There is not, Your Honor.

11 JUDGE ROSAS: Okay.

12 MS. PENDER-STANLEY: But it's 7 minutes and 21 seconds,
13 and there's only two speakers on the audio.

14 (Audio played at 9:08 a.m., ending at 9:09 a.m.)

15 Q BY MS. PENDER-STANLEY: Who was that, Jaz?

16 A Cassie Fleischer.

17 (Audio played at 9:09 a.m., ending at 9:09 a.m.)

18 Q BY MS. PENDER-STANLEY: Who was that?

19 A Patty Shanley.

20 (Audio played at 9:09 a.m., ending at 9:09 a.m.)

21 Q BY MS. PENDER-STANLEY: Who was that said "Hi, Cassie"?

22 A Michaela Murphy.

23 Q Okay. 42 seconds.

24 (Audio played at 9:09 a.m., ending at 9:10 a.m.)

25 Q BY MS. PENDER-STANLEY: Who's this, now?

1 A Patty.

2 Q 59.

3 (Audio played at 9:10 a.m., ending at 9:16 a.m.)

4 MS. PENDER-STANLEY: I offer General Counsel Exhibit 116.

5 MS. POLITO: No objection, Judge.

6 JUDGE ROSAS: General Counsel's 116 is received.

7 **(General Counsel Exhibit Number 116 Received into Evidence)**

8 MS. PENDER-STANLEY: I don't have any further questions
9 for this witness at this time.

10 JUDGE ROSAS: Charging party?

11 MR. HAYES: No questions.

12 JUDGE ROSAS: All right. Off the record.

13 (Off the record at 9:17 a.m.)

14 JUDGE ROSAS: On the record.

15 **CROSS-EXAMINATION**

16 Q BY MS. POLITO: Good morning, Ms. Brisack.

17 A Hello.

18 Q When you were hired by Starbucks in or around December of
19 2020, did you receive a partner guide?

20 A Not a physical copy.

21 Q An online copy?

22 A I believe so.

23 Q And did you acknowledge receipt of the copy?

24 A I don't remember.

25 Q You don't remi -- remember signing receipt of the partner



1 guide?

2 A I don't remember, but I assume so.

3 Q Did you -- do you recall reviewing the partner guide?

4 A Yes.

5 Q And in the partner guide there were a number of different
6 policies; is that correct?

7 A Yes.

8 Q When you were hired by Starbucks, were you also employed
9 by Workers United?

10 A Yes.

11 MS. PENDER-STANLEY: Objection. Relevance.

12 JUDGE ROSAS: Overruled.

13 Q BY MS. POLITO: And you continue to be employed by Workers
14 United; is that correct?

15 A Yes.

16 Q You testified that your first listening session that you
17 went to was in September. Do you recall that testimony?

18 A Yes.

19 Q And you were, in fact, paid for each time that you
20 attended a listening session, correct?

21 A Yes.

22 Q And on September 19th you testified that you were paid for
23 your entire shift to attend that listening session; is that
24 correct?

25 A Yes.



1 Q You also testified on direct examination with respect to
2 remodeling at the Elmwood store. Do you recall that testimony?

3 A Yes.

4 Q And during the time that the store was being remodeled you
5 were, in fact, offered to take shifts at other stores; is that
6 correct?

7 A Yes.

8 Q And you chose not to, correct?

9 A Yes.

10 Q Your store manager at Elmwood was David Fiscus prior to
11 August 23rd, 2021; is that correct?

12 A That's wrong.

13 Q That's wrong?

14 A David Fiscus was the manager at Camp Road.

15 Q David Fiscus was the manager at Camp Road. Who was your
16 manager prior to August 2021 at Elmwood?

17 A Patty Shanley.

18 Q Did you know who David Fiscus was?

19 A Not personally. I had heard of him.

20 Q And you never worked with him?

21 A No.

22 Q And Patty Shanley has since left Starbucks; is that
23 correct?

24 A Yes.

25 Q You had no complaints about her as a store manager prior



1 to August 2021; is that correct?

2 A She was a very nice person. So I mean, I had a good
3 relationship with her.

4 Q Prior to August 2021, you had a good relationship with
5 her?

6 A Correct.

7 Q And after August 23rd, 2021, you continued to have a good
8 relationship with her, correct?

9 A Correct.

10 Q And Patty is the one that sometime in the fall of 2021
11 talked to you about the dress code policy, correct?

12 A Yes.

13 Q And she, in fact, gave you a copy of the dress code policy
14 and asked you to acknowledge receipt of that, correct?

15 A Yes.

16 Q And when she did that, she talked to you about the fact
17 that you were wearing a number of pins?

18 A Not at that time.

19 Q At what time did she talk to you about your pin wearing?

20 A Sometime after February 2022.

21 Q And she told you that you could only wear one pin; is that
22 correct?

23 A Yes.

24 Q And you never received any formal discipline for the times
25 that you wore more than one pin; is that correct?

1 A I was told I would if I did not take the pin off.

2 Q Correct. And so you complied, and you took the second pin
3 off; is that correct?

4 A Yes.

5 Q In fact, during your entire time at Starbucks you haven't
6 received any disciplinary action for your Union activity,
7 correct?

8 A I was written up.

9 Q Why were you written up?

10 A For a missed shift.

11 Q Did you, in fact, miss the shift?

12 A Yes.

13 Q And you testified on direct examination that you're a
14 vocal supporter of the Union; is that correct?

15 A Yes.

16 Q And would it be fair to say that, given your Wikipedia
17 page, that you're the most vocal supporter of the Union at
18 Starbucks?

19 MS. PENDER-STANLEY: Objection. Calls for speculation.

20 JUDGE ROSAS: I'll allow an answer to that.

21 A I don't believe so.

22 Q BY MS. POLITO: And other than the write-up for the missed
23 shift that you admit that you missed, you haven't received any
24 other discipline from Starbucks; isn't that correct?

25 A Not currently.

1 Q If -- do you have Exhibit Number 41 in front of you?

2 A I don't think so.

3 JUDGE ROSAS: Here you go.

4 Q BY MS. POLITO: Yesterday you talked about -- to us -- a
5 little bit about leave of absence and vacation requests. Do
6 you recall that testimony?

7 A Yes.

8 Q In looking at Exhibit Number 41, on page 1, it looks like
9 on October 31st you made a request for time off to spend
10 holidays with family from December 19th to January 3rd. Do you
11 see that?

12 A I actually made the request on the 24th.

13 Q Yes. Sorry. You made the request on the 24th, and it was
14 approved on the 31st; is that correct?

15 A Right.

16 Q Do you know at that point in time how much vacation time
17 you had or time off you had available to you?

18 A I don't remember.

19 Q Would you turn to the next page? This is where we looked
20 at the exhibit yesterday, and I added some dates.

21 A Um-hum.

22 Q So you -- on -- on February 11th, 2022, you made a request
23 for time off for a wedding out of town from May 14th to May
24 28th; is that correct?

25 A Yes.



1 Q And in the notation Ms. Shanley denied that request on
2 February 16th; is that correct?

3 A Yes.

4 Q And during this time period, I believe your testimony
5 yesterday was that the store was understaffed, correct?

6 A Yes.

7 Q And the store remains understaffed; is that correct?

8 A That's correct.

9 Q You next -- if you look at page 3 of the same exhibit --
10 on February 22nd, you, again, asked for the time off of May
11 14th to May 28th. Do you see that?

12 A Yes.

13 Q And on February 26th, it notes that it's denied, but
14 there's also a notation from Ms. Shanley that you'll need to
15 put in an LOA request. Do you see that?

16 A Yes.

17 Q So it's not that your time off was denied --

18 JUDGE ROSAS: What was the answer?

19 THE WITNESS: Yes.

20 Q BY MS. POLITO: It's not that your time off request was
21 denied, it was that you were told that you had to fill out a
22 LOA request, correct?

23 MS. PENDER-STANLEY: Objection. The document speaks for
24 itself.

25 JUDGE ROSAS: I'll allow that.



1 A It was denied. That was the explanation for the denial.
2 But it says it was denied, which is how the -- it works in the
3 Starbucks system.

4 Q BY MS. POLITO: You were told that you had to submit a
5 request for a leave of absence, correct?

6 A Correct.

7 Q And isn't it true that at that time you had no available
8 paid time off, correct?

9 A I believe so. You don't even accrue until a year.

10 Q Okay. So there's no available time off, and Ms. Shanley
11 told you that you needed to request a leave of absence.
12 Because if you got a leave of absence you'd continue on as an
13 employee of Starbucks, and you wouldn't lose any benefits; is
14 that correct?

15 MS. PENDER-STANLEY: Objection. Assumes facts not in
16 evidence.

17 JUDGE ROSAS: Rephrase.

18 Q BY MS. POLITO: By taking a leave of absence, you would've
19 continued on as a Starbucks employee, correct?

20 A It does change your status in the Starbucks system.

21 Q It sta -- it changes your status to being on an unpaid
22 leave of absence; is that correct?

23 A Correct.

24 Q And then when you returned from your unpaid leave of
25 absence in the system, your store manager has to indicate that

1 you've returned from the leave of absence, correct?

2 A It has to go through Sedgwick as well, and I believe, the
3 district manager as well, but I'm not 100 percent sure on that.

4 Q So we can agree that there's a process when you return
5 from an approved leave of absence so that you're identified as
6 active in the system again. Is that correct?

7 A Correct.

8 Q And you would agree with me that prior to February 20 -- I
9 think it says the 6th or the 8th -- Ms. Shanley talked to you
10 about submitting your request for a leave of absence, correct?

11 A Yes.

12 Q Did you, in fact, submit a request for a leave of absence?

13 A Af -- later on, yes.

14 Q So looking at page 4 of General Counsel Exhibit 41, this
15 is the third time that you're making the request. I think it
16 says March 14th on the bottom for the same time period, 5/14,
17 but this time you've added a date to 5/29; is that correct?

18 A Yes.

19 Q And on March 15th, Ms. Shanley says, "Jaz -- Jazy, as
20 stated before, you need to contact Sedgwick and request an LOA
21 for that amount of time off. Please let me know if you need
22 assistance". You see that?

23 A Yes.

24 Q So Ms. Shanley, your store manager, told you another time
25 that in order for you to get that time off you have to submit

1 the LOA request, correct?

2 A Yes.

3 Q And after this third time is when you submitted your LOA
4 request; is that correct?

5 A There was a time when I tried to send it in as separate
6 requests. I don't remember the chronology exactly. I believe
7 I submitted them as separate requests because she was saying
8 that she would have to get approval to see if she could approve
9 them individually. So I think it was after that.

10 Q And then ultimately, you did get your leave of absence
11 approved; is that correct?

12 A Yes.

13 Q And you took the time off?

14 A Yes.

15 Q And you lost no benefits?

16 A Not to my knowledge.

17 MS. POLITO: Nothing further, Judge.

18 JUDGE ROSAS: Redirect.

19 MS. PENDER-STANLEY: Just briefly, Your Honor.

20 **REDIRECT EXAMINATION**

21 Q BY MS. PENDER-STANLEY: Jaz, keep looking at GC-41.

22 A Um-hum.

23 Q Look at the first page. On October 24th, 2021, when you
24 submitted that request, how long had you been working at
25 Starbucks?

1 A Nearly -- almost a year.

2 Q Did you have any accrued leave at that time?

3 A No.

4 MS. PENDER-STANLEY: Nothing further.

5 MR. HAYES: Nothing from Charging Party.

6 JUDGE ROSAS: Thank you. Your testimony's concluded. Do
7 not discuss your testimony with anyone until you're advised
8 otherwise by counsel, all right?

9 THE WITNESS: Yes.

10 JUDGE ROSAS: Have a good day.

11 THE WITNESS: Thank you.

12 JUDGE ROSAS: Off the record.

13 (Off the record at 10:27 a.m.)

14 MS. CACACCIO: Judge, this is Edwin Park.

15 JUDGE ROSAS: Raise your right hand.

16 Whereupon,

17 **EDWIN PARK**

18 having been duly sworn, was called as a witness herein and was
19 examined and testified as follows:

20 JUDGE ROSAS: All right. Loudly, at all times. State and
21 spell your name, provide us with an address.

22 THE WITNESS: All right. My name is Edwin park. First
23 name, E-D-W-I-N. Last name, P-A-R-K. I reside at (b) (6), (b) (7)(C)

24 [REDACTED] Would you like me to give
25 the city and ZIP code?



1 JUDGE ROSAS: Yeah.

2 THE WITNESS: (b) (6), (b) (7)(C) .

3 JUDGE ROSAS: Anywhere you could be subpoenaed, so. Okay.
4 Go ahead.

5 **DIRECT EXAMINATION**

6 Q BY MS. CACACCIO: Good morning.

7 A Good morning.

8 Q Testing my mic sound. Okay.

9 A Oh, okay.

10 Q I tend to be too loud, apparently. So I'm going to back
11 off of this mic.

12 A Um-hum.

13 Q Do you go by any -- did you ever go by any other names at
14 work, Mr. Park?

15 A Yes. I went by [Me-en] or [Min] or [Min-woo] because the
16 spelling of my name is a little weird. It's spelled
17 M-I-N-W-O-O, or just M-I-N.

18 Q And what are your pronouns?

19 A I use he/they pronouns.

20 Q Did you ever work for Starbucks?

21 A I did work for Starbucks, yes.

22 Q When did you work for Starbucks?

23 A I started working for Starbucks in April of 2019. I was
24 then promoted to shift supervisor in April of 2021. And then
25 ultimately terminated on March 21st of 2022.

1 Q Do you remember when you were promoted? Sorry.

2 A Yes. I was promoted on the week of the 12th -- April --
3 so the week of April 12th, 2021.

4 Q And what locations did you work in?

5 A Originally, I had worked at the Starbucks on Elmwood
6 Avenue, or also known as Starbucks on Elmwood. And then I was
7 promoted to the Starbucks in Depew, which is located on French
8 and Transit.

9 Q And when did you work in Elmwood, and when did you work in
10 Transit?

11 A I worked at the Starbucks on Elmwood from April of 2019 up
12 until April of 2021.

13 Q And does that location on Transit go by any other name?

14 A Yes. It goes by the Starbucks in Depew or the Depew
15 store.

16 Q Is it -- is the cross street Transit and French?

17 A The cross is Transit and French, correct.

18 Q What -- how many hours did you typically work when you
19 worked at the Depew store?

20 A At the Depew store, I worked at close to 40 hours a week,
21 but I typically averaged around 35.

22 Q And when you first started at the Depew store, what shifts
23 were you working?

24 A I was going -- I was working primarily opening shifts, so
25 that entailed typically 5 a.m. to 1 p.m. shifts. Occasionally,

1 I'd get, like, a 7 to 3. Or even rarer than that, a 9 to 5.

2 Q How long did that schedule last?

3 A That schedule lasted up until about January 1st of this
4 year.

5 Q And what happened at that point?

6 A At that point, I went on a leave of absence, came back
7 January 21st, and then moved to mostly closes.

8 Q Did you ask to move to closing shifts?

9 A I did not.

10 Q And you said, "mostly closes". Did you work other shifts
11 at that point as well?

12 A Yeah. Occasionally, I would work an open or a mid-shift
13 in there. Some are mixed in the schedules.

14 Q Are you familiar with the Union Workers United?

15 A I am familiar.

16 Q When did you become familiar with the Union?

17 A I became familiar around -- I want to say July of 2021 --
18 when Jazlyn Brisack approached me and talked to me about
19 unionizing at Starbucks.

20 Q Did you have any role with the Union?

21 A I was very briefly on the organizing committee.

22 Q What did you do on the organizing committee?

23 A I mainly spoke to partners at the Depew location in
24 regards to unionizing.

25 Q Are you familiar with the letter that went out to Kevin



1 Johnson?

2 A I am familiar with it.

3 Q How are you familiar with it?

4 A I signed my name on the letter.

5 Q Did you show your Union support in any other way at work?

6 A I did. I wore a pin on my apron.

7 Q Which pin did you wear?

8 A I wore the pride version of the Starbucks Workers United.

9 Q And how often did you wear that pin?

10 A I wore it pretty much every day.

11 Q Do you remember when you started wearing it?

12 A I wore it after the campaign had gone public.

13 Q At the time that the letter to Kevin Johnson went out, who
14 was the store manager at Depew?

15 A That would be Nicholas (phonetic throughout) Toler -- or
16 Tollar -- I don't know how to pronounce his last name.

17 Q Do you know when he became the store manager at Depew?

18 A I do not.

19 Q Okay. Was he there when you got there?

20 A He was there when I got there.

21 Q So prior to the end of August 2021, how often was Nick in
22 the store?

23 A Nick would be at the store around five days a week, going
24 from -- for eight hours a day. Typically, in the mornings from
25 either 5 to 1 or 7 to 3; something along those lines.

1 Q Okay. What did he do when he was there?

2 A He would on occasion help us out on -- to work the line
3 during the peak, but most of the time would be spent doing
4 admin work off to the side.

5 Q At the time you left Transit and French, was Mr. Toler
6 still there?

7 A No. He was no longer there.

8 Q Do you remember when he left?

9 A He went on a leave of absence on October 20th, and then
10 after a couple of weeks, fully resigned.

11 Q So who was the store's manager after Nick left?

12 A We had a series of supporting store managers. And then
13 assistant store manager that then promoted to store manager.

14 Q And who was the first support manager that arrived?

15 A That would be Jack -- Jack Morton.

16 Q And the next one?

17 A After that would be Tiffany Mann.

18 Q And the next one?

19 A Taylor Alviar.

20 Q Had any of the stores -- either Elmwood or Transit and
21 French -- prior to Jack's arrival -- had you ever had a support
22 manager at any store you worked at?

23 A I had never had a support manager up until that point.

24 Q Had you ever heard of a support manager up until that
25 point?

- 1 A I had not.
- 2 Q Do you remember where Jack was from?
- 3 A Jack was from Minnesota.
- 4 Q And when did he arrive in your store?
- 5 A He arrived at my store mid-September.
- 6 Q So was there a time that Jack was there and Nick was still
7 there?
- 8 A Correct.
- 9 Q Okay. What did Jack do in Minnesota?
- 10 A Jack was a store manager.
- 11 MR. BALSAM: Objection. Relevance.
- 12 JUDGE ROSAS: Foundation.
- 13 Q BY MS. CACACCIO: You can answer.
- 14 A Jack was a --
- 15 JUDGE ROSAS: No, no.
- 16 MS. CACACCIO: Oh --
- 17 JUDGE ROSAS: Sustained.
- 18 MS. CACACCIO: Oh, I'm sorry. I thought you said --
- 19 JUDGE ROSAS: Foundation.
- 20 Q BY MS. CACACCIO: Do you know where he -- what. Do you
21 know what Jack did in Minnesota?
- 22 A Jack was a store --
- 23 Q No. Do -- do you know? Yes or no?
- 24 A Yes.
- 25 Q How do you know?

- 1 A Because he informed me.
- 2 Q What did he tell you?
- 3 A He told me that he worked as a store manager in the malls.
- 4 Q How often did Jack work in your store?
- 5 A Jack worked at my store five days a week, around eight
- 6 hours a day, if not more.
- 7 Q When he was in your store, what did he do?
- 8 A Originally, he worked as -- with us on the line, I believe
- 9 in order to build rapport and support us. And then from there
- 10 transitioned to do more back-of-house tasks and attend various
- 11 meetings.
- 12 Q Did there come a time when he left your store?
- 13 A I'm sorry. Could you repeat the question?
- 14 Q Did there -- did there come a time when Jack left your
- 15 store?
- 16 A Yes. He --
- 17 Q When -- when did he leave your store?
- 18 A He left my store around mid-December.
- 19 Q You mentioned another support manager named Tiffany. Do
- 20 you remember her last name?
- 21 A Tiffany Mann, M-A-N-N.
- 22 Q Do you know where she was from?
- 23 A She was from Michigan.
- 24 Q Do you know what she did in Michigan?
- 25 A She was a store manager in Michigan.

- 1 Q How do you know that?
- 2 A She told -- she regaled many stories about her store.
- 3 Q When did she arrive in your store? Approximately?
- 4 A She arrived in my store about a month after Jack arrived.
- 5 Q And how often did Tiffany work in your store?
- 6 A Tiffany worked a minimum of five days a week for about
- 7 eight hours a day, if not more.
- 8 Q And when she was in your store, what did she do?
- 9 A She helped us out on the line, similar to Jack. And then
- 10 also transitioned to do more back-of-house things.
- 11 Q Did there come a time when Tiffany left your store?
- 12 A Yes. Tiffany left late February.
- 13 Q And you mentioned someone named Taylor. Do you remember
- 14 Taylor's last name?
- 15 A Taylor, whose last name is Alviar, A-L-V-I-A-R.
- 16 Q And where was she from?
- 17 A She was from the Dallas-Fort Worth area in Texas.
- 18 Q Do you know what she did in Dallas-Fort Worth?
- 19 A She was a store manager there.
- 20 Q And how do you know that?
- 21 A She had also talked to me about her progression at
- 22 Starbucks.
- 23 Q Do you remember about when Taylor joined your store?
- 24 A She joined around November.
- 25 Q And how often did she work in your store?

1 A She would work five days a week, eight hours a day in the
2 evenings.

3 Q Did your store ever receive any other managers during the
4 campaign?

5 A We received an assistant store manager by the name of
6 Melissa Garcia, who then promoted to become our store manager.

7 Q When did she start in your store?

8 A She started in my store around November.

9 Q And how often did she work in your store?

10 A She worked at my store same as the others, five days a
11 week, eight hours a day, if not more, depending on if -- if --
12 if a situation arose.

13 Q And when she was in your store, what did she do?

14 A Originally, she worked a lot with both Jack and Tiffany
15 because she was learning how to become a store manager or
16 assistant store manager, rather. And then aft -- and would
17 occasionally help us out on the floor.

18 Q Did you ever speak with her?

19 A I did.

20 Q Did you ever speak with her about the Union?

21 A We briefly had spoken.

22 Q And what -- how did it come up?

23 A She asked me how I felt about the Union overall. I told
24 her that I was in support of it. She told me that she wasn't,
25 and that -- and we both came to the conclusion that it wouldn't

1 affect how we worked together because we had worked together
2 before and we were doing pretty well.

3 Q And where did you have this conversation with Melissa?

4 A This was held in the back room.

5 Q Do you remember about when you had that conversation?

6 A I do not.

7 Q At the time you were terminated, was Melissa still a
8 manager in your store?

9 A Yes, she was.

10 Q Prior to the end of August of 2021, how often would you
11 work in your store without a manager present?

12 A I would work pretty often without a manager present.

13 Q And what about after the end of August of 2021? How often
14 would you work shifts in your store without a manager present?

15 A I would -- there would pretty much always be a store
16 manager there. I can only think of maybe one time where there
17 wasn't a store manager.

18 Q What do you remember about that -- that one time?

19 A It was a set of very unfortunate circumstances. It was
20 supposed to be MG that was working with me on the floor, but
21 she had to isolate.

22 Q And where was the other managers?

23 A The other manager at the time was on a leave of absence.
24 Taylor Alviar would be coming in for the evening shift.

25 Q Did your store ever get any visits from any high-ranking

1 Starbucks officials?

2 A We did.

3 Q And do you remember any of them specifically?

4 A Specifically, I can only remember Rossann by name.

5 Q How many times do you remember seeing Rossann in your
6 store?

7 A I saw Rossann maybe two or three times.

8 Q And what did she do when she was there?

9 A She mainly talked with all of the partners. Occasionally,
10 would ask is there anything that she can do to help us.

11 Q Did you ever speak with her yourself?

12 A I did.

13 Q What did you talk to her about?

14 A I talked to her about how stressed I was at Starbucks.

15 Q Why did you talk to her about that?

16 A Because a shift had -- opening shift had been recently let
17 go and the other opening shift was going on a medical leave
18 because of her foot, leaving me the only experienced opening
19 shift there.

20 Q Did she respond to you?

21 A She did.

22 Q What did she say?

23 A She told me that she would talk to my supporting store
24 managers to find the help that I needed.

25 Q Why did you tell Rossann this?



- 1 A Because I thought that she could help me.
- 2 Q Were headsets worn at your store in Depew?
- 3 A They are.
- 4 Q Prior to the end of August of 2021, who would wear
- 5 headsets?
- 6 A We only had a set number of headsets, so we would give
- 7 them out to whoever needed -- was needed to work on drive-thru.
- 8 So if you want me to list the -- the people exactly, I can do
- 9 that for you.
- 10 Q About how many headsets did your store have prior to the
- 11 end of August of 2021?
- 12 A Three to four.
- 13 Q And what roles would -- would wear them?
- 14 A The person working on food. The person working on drive-
- 15 thru. The person working on bar. And occasionally, the person
- 16 working CS.
- 17 Q Prior to the end of august of 2021, did your manager, Nick
- 18 Toler, ever wear a headset?
- 19 A Yes. Only on specific occasions.
- 20 Q Do you remember what those occasions would be?
- 21 A Only when he was working on the line to help us out during
- 22 peak.
- 23 Q And what about after he left the line during peak? Would
- 24 he continue to wear it or would he take it off?
- 25 A He would take it off and put in his own AirPods. Earpods?

1 AirPods. I don't know if I can say that out loud.

2 Q And how often did Nick work peak during the week?

3 A Two or three times.

4 Q After the end of August of 2021, who wore headsets in your
5 store?

6 A Pretty much everyone --

7 Q And how --

8 A -- that was working the line. Sorry.

9 Q Okay. Did -- so did your -- how many headsets did your
10 store have at that time?

11 A We had easily eight to nine functioning headsets.

12 Q Do you remember about when you got more headsets in your
13 store?

14 A A couple of weeks after the campaign went public.

15 Q And what about management? Who wore headsets after the
16 end of August 2021?

17 A Pretty much one supporting store manager would have a
18 headset on because they were working on the floor.

19 Q And what about when they weren't working on the floor?

20 A They would have it either on them or by them.

21 Q Prior to the end of August 2021, what would you have to do
22 if you wanted to work overtime?

23 A I would have to notify my store manager, who would get the
24 approval from the district manager.

25 Q Did that ever change?



- 1 A It did.
- 2 Q When did it change?
- 3 A It changed after the campaign went public. So sometime
4 after August of 2021.
- 5 Q What happened?
- 6 A And the message went out --
- 7 Q Yeah. What happened?
- 8 A Yes. A -- a message went out from my store manager saying
9 if we ever needed -- if we wanted more hours between the time
10 frame of 8 a.m. to 4 p.m., to just let him know.
- 11 Q And if -- did you -- how did you receive that message?
- 12 A I received that message via GroupMe.
- 13 Q And what's --
- 14 A The store's GroupMe.
- 15 Q What's this -- what's GroupMe?
- 16 A GroupMe is an app, essentially, that allows you to have a
17 group chat.
- 18 Q And who was in that store's GroupMe?
- 19 A All of our partners, including management.
- 20 Q Are you still a part of that GroupMe?
- 21 A No. I left as of March 21st.
- 22 Q So do you still have access to that GroupMe?
- 23 A I do not have access to the GroupMe.
- 24 Q Prior to your no longer being involved in the GroupMe, did
25 you ever take a screenshot of that message?

1 MR. BALSAM: Objection. Which message are we referring
2 to?

3 MS. CACACCIO: The --

4 Q BY MS. CACACCIO: Did you ever take a screenshot of the
5 message from Nick Toler offering additional overtime?

6 A I had gotten it off of a -- a group chat.

7 Q If I showed you a copy of it, would you be able to
8 identify it?

9 A Yes.

10 MS. CACACCIO: Showing the witness General Counsel Exhibit
11 124.

12 Q BY MS. CACACCIO: So if you could just take that -- yep,
13 take that off. And then slip everything else over. Can you
14 tell me what General Counsel Exhibit 124 is?

15 A This would be a message from Nick Toler, ask -- saying
16 that we can add more labor every day between the hours of 3 to
17 4. So if we wanted to work during those hours to just let him
18 know and he would put you on the schedule for that time.

19 Q Did you ever take advantage of that?

20 A I did.

21 Q And do you have any texts of -- of that experience?

22 A I do. I have a text on September 4th utilizing this
23 available hours.

24 Q If I showed you a copy of it, would you be able to
25 recognize it?



1 A I would be able to recognize it.

2 Q Can you flip that packet back over? Pull out the next
3 page, and then flip it back over. What's General Counsel
4 Exhibit 129? What is that document?

5 A Oh, I'm so sorry. This is a text from me to Nick, stating
6 that I was greatly in need of more hours and would be utilizing
7 the aforementioned GroupMe message.

8 Q And how was this text sent? What -- what messaging system
9 did you use?

10 A I texted him directly from my phone. So messages on
11 iPhone, Apple.

12 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
13 124 and 129.

14 MR. BALSAM: Voir dire.

15 **VOIR DIRE EXAMINATION**

16 Q BY MR. BALSAM: With respect to General Counsel's Exhibit
17 124, which is being offered into evidence, is this a complete
18 screenshot of the GroupMe message that you received?

19 A This is.

20 Q There's nothing else? No other text that was on this
21 particular GroupMe messaging?

22 A Other than the entire just group chat in general, this is
23 the exact message that was offered.

24 Q All right. But you said you took a screenshot of the
25 GroupMe message, correct?

1 A Correct.

2 Q Is this a complete image of the screenshot that you took
3 of the GroupMe message?

4 A No. It was cut off from the top. Like, it was cropped to
5 not show, like, the information of my time, battery life, et
6 cetera. Just of the message itself.

7 Q And I notice that there's no date on here, correct?

8 A Correct.

9 Q And the GroupMe messaging, is there a location where it
10 identifies the date in which the message was sent?

11 A You can only see that if it's a previous message date.
12 You would have to click on the message itself, and then it
13 would show you the date and time that the message was sent.

14 Q So there's a way -- a way by which looking at GroupMe you
15 would see the date in which the message came out?

16 A Yes. If you went through the group chat you could
17 probably click on it and see the date and time.

18 MR. BALSAM: Your Honor, I'm going to object to the
19 introduction of 124 as it's not an actual screenshot of the
20 message. The witness just testified that there's portions of
21 the screenshot that are missing from this image. And so I
22 think that the best evidence would be the entire screenshot,
23 based on the witness' own testimony.

24 MS. CACACCIO: Your Honor, might I be heard? The witness
25 testified that all they cropped off was their own phone's

1 battery life. The witness testified that the message itself
2 was complete.

3 JUDGE ROSAS: So --

4 MS. CACACCIO: More -- moreover -- sorry.

5 JUDGE ROSAS: Go -- go ahead.

6 MS. CACACCIO: I didn't mean to cut you off, Judge.

7 JUDGE ROSAS: Finish up.

8 MS. CACACCIO: Moreover, we of course, requested
9 communications like this from Respondent, which has not been
10 produced, so this is the best I got. He's no longer in the
11 group chat. This is what I have.

12 MR. BALSAM: Well, without actually seeing the image that
13 the witness is talking about on his phone, there's no way to
14 really know what, in fact, is being clipped from this image.
15 And so again, to the extent that there is a better image that
16 accurately reflects the screenshot, which is what the witness
17 testified to -- that's the document that should be used as
18 evidence. Not a clipped version of the screenshot, which shows
19 that it was manipulated.

20 MS. CACACCIO: Your Honor, might I be heard? The
21 witness -- that's not what the witness testified to. The
22 witness said -- and I can ask another clarifying question if
23 you need me to.

24 JUDGE ROSAS: Sure.

25 Q BY MS. CACACCIO: Is there any portion of the message that

1 Nick sent that is missing from General Counsel's Exhibit 124?

2 A No. there is no additional information.

3 Q So what did you crop out?

4 A I cropped out what would've shown my battery life, any
5 notifications that were at the top of my phone, the time.

6 Q Is the message itself complete?

7 A The message itself is complete.

8 MS. CACACCIO: I offer General Counsel 124.

9 JUDGE ROSAS: Okay. So when did you crop?

10 THE WITNESS: I cropped the image when I was talking
11 with -- I believe his name is Thomas Miller (phonetic
12 throughout), which would've been late December.

13 MS. CACACCIO: That's the Board agent, Judge.

14 JUDGE ROSAS: Okay. So you have -- do you have a copy of
15 the uncropped version?

16 THE WITNESS: I do not have a copy of the uncropped
17 version because --

18 JUDGE ROSAS: But you had that in paper form -- the
19 uncropped version?

20 THE WITNESS: Not in paper form. It was -- it's a
21 screenshot from --

22 JUDGE ROSAS: So do you still have the screenshot in the
23 uncropped version?

24 THE WITNESS: I do not. But we could probably retrieve it
25 in the group chat that it was sent in, but I'm no longer a part

1 of the group chat anymore. This was sent to the store's group
2 chat.

3 JUDGE ROSAS: So when you cropped it back in December --

4 THE WITNESS: Um-hum.

5 JUDGE ROSAS: -- you uncropped the -- or you excluded the
6 date and the time?

7 THE WITNESS: I excluded any information that was on my
8 phone not pertinent to this complete message. So like --

9 JUDGE ROSAS: Was the date and the time on there?

10 THE WITNESS: So in order --

11 JUDGE ROSAS: Before you cropped it?

12 THE WITNESS: In order to grab the date and the time,
13 there were extra steps that had to have been completed in order
14 to grab that.

15 MS. CACACCIO: Did --

16 THE WITNESS: And I did not --

17 MS. CACACCIO: Did you complete those extra steps to grab
18 it at that time?

19 THE WITNESS: I did not at that time.

20 MR. BALSAM: Your Honor, you have a witness who just
21 testified to destroying or deleting, I believe, evidence. In
22 addition, again, it goes to the point of that this is not an
23 actual screenshot. And as you -- we've soon -- seen through
24 prior witnesses, they have been producing actual screenshots
25 that have not been cropped.

1 MS. CACACCIO: Might I be heard, Judge? This witness can
2 only produce what he has. If we need him to step out so I can
3 talk more about it I'm happy to do that.

4 JUDGE ROSAS: No. Let me ask General Counsel. Was this
5 type of a document included in the subpoenaed documents?

6 MR. DOLCE: No. No. They produced no -- almost no
7 communications, Judge.

8 JUDGE ROSAS: No. Was it --

9 MS. CACACCIO: Did we request it?

10 MR. DOLCE: We requested it; we didn't get it.

11 JUDGE ROSAS: Okay. Does the Respondent know if this is
12 information that is maintained in the regular course of its
13 business?

14 MR. BALSAM: The -- the -- these GroupMe, to my
15 knowledge -- one second. So Your Honor, this is not a database
16 that's supported by Starbucks. It's an independent database
17 that --

18 JUDGE ROSAS: It's a what?

19 MR. BALSAM: Independent database -- a messaging app.
20 This is not a Starbucks messaging app. And so we don't have
21 the ability to obtain these -- these documents that are
22 utilized via GroupMe. It's a third-party provider.

23 MS. CACACCIO: Might I --

24 MR. BALSAM: Unofficial -- it's not an official Starbucks.

25 MS. CACACCIO: Might I be heard? Respondent's managers

1 are in these group chats. So Respondent's managers can go in
2 there, and they can search through and pull things out is what
3 they should be doing.

4 MR. BALSAM: That -- that's not accurate. That's not how
5 this works, right?

6 MS. CACACCIO: Yes, it is.

7 MR. BALSAM: It's whether or not Starbucks as a
8 corporation maintains this type of database. Starbucks as a
9 corporation does not. The rules of discovery do not require
10 our managers to go into an independent third-party database to
11 obtain GroupMe chats.

12 MS. CACACCIO: Might I be heard?

13 MR. BALSAM: That doesn't -- that's how it works.

14 MS. CACACCIO: Might I be heard? Respondent also doesn't
15 own Apple. Respondent, if they've been texting people, should
16 also be going through their phones and pulling those out as
17 well. This is just a messaging database. They're using it in
18 the course of their communication, and they should have to go
19 through those messages and pull them out to the extent they
20 want to continue to object to this.

21 MR. BALSAM: I -- I disagree. But again, my objection
22 here boils down to what is the actual screenshot that this
23 witness took? This is not the actual screenshot, as the
24 witness has testified to.

25 MS. CACACCIO: Might I be --



1 MR. BALSAM: So to the extent that the General Counsel
2 wants to utilize this document or a form of this document, the
3 actual document is not this. It's the actual screenshot. Not
4 after a Board agent told the witness to crop out other -- other
5 pieces of information.

6 MS. CACACCIO: Might I be heard? There's been no
7 testimony the Board agent asked the witness to crop this
8 document.

9 MR. BALSAM: I -- I understand that.

10 MS. CACACCIO: It's what you just said --

11 MR. BALSAM: But at the same --

12 MS. CACACCIO: -- and that's not what happened.

13 MR. BALSAM: But at the same time, he did testify that
14 when he was in the meeting with the Board agent, he cropped out
15 other aspects of this image.

16 MS. CACACCIO: That's also not what he said. What he said
17 is he sent it to the Board agent. And he sent him the cropped
18 version. This is the version the Board has. The witness no
19 longer has access to the group chat. Respondent's managers do.
20 If Respondent has some other version they want to produce, we
21 can talk about it at that point, but we have requested these
22 communications from Respondent's managers to its employees.
23 Nothing -- almost nothing in that regard has been produced.

24 JUDGE ROSAS: All right. I've heard enough. Let me --
25 let me just look at both documents.

1 MR. BALSAM: I haven't even gotten to the second document,
2 Your Honor. We haven't even talked about that. And I have
3 voir dire on that as well.

4 JUDGE ROSAS: Well, you know what? Get to the second
5 document. Let's do it en masse.

6 Q BY MR. BALSAM: General Counsel Exhibit 129, which is
7 being offered into evidence, you represent is a text message
8 chain between yourself and Nick; is that correct?

9 A That is correct.

10 Q And is there any portion of GC Exhibit 129 that is not
11 reflected in the screenshot that you took of your screen at
12 that time?

13 A Can you elaborate for --

14 Q Sure. It was -- it was a bad question; I apologize. Is
15 there any aspect of GC Exhibit 129 that is not reflected in
16 here?

17 A The information probably not reflected would be the
18 updated schedule that I wanted from him that reflected me
19 utilizing this offer.

20 Q All right. So in here it looks like the first box -- it's
21 your text message to Nick, correct?

22 A Correct.

23 Q The second box, is that your text message to Nick as well?

24 A Yes. Sorry.

25 Q And then the third box, is that Nick's response to you?

1 A That is Nick's response to me.

2 Q All right. Is there any other text from this line of
3 communication that is not reflected in GC-129 about the subject
4 matter that we're talking about?

5 A Yes. That would be the schedule that I provided -- the
6 theoretical schedule -- that was provided -- that I provided to
7 him using this aforementioned offer.

8 Q And did Nick respond to your text?

9 A He did.

10 Q How many more exchanges went back and forth on September
11 4th?

12 A I believe that's it. If you want, I can -- I do have a
13 copy of this on my phone. I could always screenshot more of
14 the conversation and send it over to Jessica.

15 MR. BALSAM: Your Honor, for the same reasons as I object
16 to Exhibit 124, this is not a complete account of the text
17 message's subject matter. And so I request that to the extent
18 that we're utilizing this as an exhibit, that it should be the
19 entire communication about the subject matter in question.

20 JUDGE ROSAS: General Counsel?

21 MS. CACACCIO: This is all I have, Judge. I -- with
22 respect to the texts, the purpose of it is to put in context
23 the date and time between when the -- when 124 was sent and 129
24 was sent. There's no allegation that anything past what's on
25 this page is relevant.

1 JUDGE ROSAS: All right. Anything else?

2 MS. CACACCIO: No, Judge.

3 MR. BALSAM: Again, we're not sitting here in Tulsa --
4 just to make it a lot easier for everyone. We're not disputing
5 that these things occurred.

6 JUDGE ROSAS: I understand.

7 MR. BALSAM: So if we can just go with it when it's his
8 testimony and just exclude both exhibits altogether.

9 JUDGE ROSAS: Okay. I -- I understand the objection,
10 especially as it relates to 124. The testimony of the witness,
11 if believed, if credited, is that this is an extract of what
12 the witness took a screenshot of from a group chat at a given
13 time. And then subsequently cropped it, thereby eliminating
14 some other information that the witness originally screenshot.

15 MS. CACACCIO: But Judge?

16 JUDGE ROSAS: Yeah?

17 MS. CACACCIO: That's -- I just want to make something
18 clear. That's not -- the -- can we have the witness step out
19 or something? Or I can just talk. I don't know.

20 JUDGE ROSAS: No, no, no. Because we're -- we're done on
21 this.

22 MS. CACACCIO: Okay.

23 JUDGE ROSAS: There's no more testimony.

24 MS. CACACCIO: The -- what the witness testified they
25 cropped out, when you take a screenshot with your phone what

1 also appears is at the top of your phone, the time, how much
2 battery life you have left. It's not the message itself that's
3 been cropped out. It's the time the witness screenshotted it,
4 which isn't relevant.

5 JUDGE ROSAS: I understand. I understand.

6 MR. BALSAM: And -- and that's what I was clear, Your
7 Honor, anyway. And then --

8 JUDGE ROSAS: Well --

9 MR. BALSAM: I don't -- General Counsel isn't testifying
10 about what the witness did, but --

11 JUDGE ROSAS: Yeah. Yeah. And -- and so the answer is
12 this. The Respondent -- well, and you all can facilitate an
13 easier process -- but the General Counsel can subpoena. Not up
14 to General Counsel. The Respondent can subpoena any diff --
15 additional information that the witness would have.

16 MR. BALSAM: Your Honor, we've already served a subpoena
17 for this witness.

18 JUDGE ROSAS: What's that?

19 MR. BALSAM: We've already received -- were served a
20 subpoena for this witness, and we've issued no documents for
21 this witness.

22 MS. CACACCIO: We already went through this whole thing.

23 JUDGE ROSAS: Upon cross-examination -- and the time is
24 now -- the request can be made. And I strongly suggest that
25 should there be a response of information, as I think there is

1 appropriate in this case, that the General Counsel or Charging
2 Party facilitate the production thereof to the extent that any
3 of it exists.

4 Okay. That being said, I'm going to receive General
5 Counsel 124 and 129 over objection.

6 **(General Counsel Exhibit Numbers 124 and 129 Received into**
7 **Evidence)**

8 JUDGE ROSAS: 129 provides context, corroboration to this
9 alleged statement by a supervisor to the witness on the date
10 stated. You provided a date here -- the date that you received
11 this group chat message from the manager?

12 THE WITNESS: Sorry?

13 JUDGE ROSAS: Do you know the date that you received this?

14 THE WITNESS: No. But it had to have happened after the
15 campaign went public and before this text was sent out.

16 JUDGE ROSAS: Where wa -- when did it occur in relation to
17 your response on General Counsel's 129?

18 THE WITNESS: I believe it had to have happened maybe
19 about a week ago or so, I believe. Maybe --

20 JUDGE ROSAS: A week before?

21 THE WITNESS: Yeah. A week before or maybe less.

22 JUDGE ROSAS: So your response was about a week after?

23 THE WITNESS: Yes.

24 JUDGE ROSAS: Okay. All right. I've -- I've ruled on
25 this. I've received General Counsel's 124, 129.

1 Again, you can address the weight, and you can subpoena
2 whatever information is available. But I'm going to receive
3 both of these documents.

4 MS. CACACCIO: Your Honor, again, I want to note that the
5 General Counsel has subpoenaed communications like this, and we
6 received almost nothing to this point. And we'll probably be
7 having this conversation again on the 9th.

8 JUDGE ROSAS: Well, we -- we've already heard the
9 Respondent's position regarding what is available to the
10 Respondent to be able to obtain. Okay. We don't need to
11 belabor this anymore. Next question.

12 MS. CACACCIO: Your Honor, I -- I just want to make -- I
13 just want to understand your ruling in that regard. Are you
14 saying that Respondent doesn't have to go through its text
15 messages, group messages, any of those messages, to produce to
16 the General Counsel?

17 MR. BALSAM: These are not Starbucks group messages.

18 JUDGE ROSAS: No. If the Respondent has this in its
19 possession, it's required to produce it. The Respondent is not
20 required to go to a third party to obtain this document.

21 MS. CACACCIO: If Respondent's manager is using a
22 messaging system, are they not required --

23 JUDGE ROSAS: Well --

24 MS. CACACCIO: -- to ask Respondent's manager to go
25 into --

1 JUDGE ROSAS: Well --

2 MS. CACACCIO: -- that messaging system --

3 JUDGE ROSAS: Let me correct that.

4 MS. CACACCIO: -- and look for messages?

5 MR. BALSAM: Your Honor --

6 JUDGE ROSAS: Let me correct that. The Respondent has
7 represented that they don't have access or the ability to do
8 that?

9 MR. BALSAM: It's not in our -- to the -- the rule is, is
10 it -- is it in our possession, custody, or control? It is not.

11 MS. CACACCIO: Your Honor --

12 MR. BALSAM: This -- GroupMe is not in our possession,
13 custody, or control. Therefore, we have no obligation under
14 any law that I'm aware of, especially the Federal Rules of
15 Civil Procedure, to go and do that.

16 MS. CACACCIO: Your Honor, might I be heard?

17 JUDGE ROSAS: There is -- there is Board precedent
18 supporting the requirement that a party seek to obtain
19 documentation for -- from a source that it has hired for that
20 purpose.

21 MR. BALSAM: And we have -- there's no evidence or any
22 indication that we have hired a third-party source for this
23 information.

24 MS. CACACCIO: Might I be heard, Judge? With respect to
25 Respondent's possession, custody, or control, Respondent's

1 managers are using this system. It's in their possession
2 because they have access to the system. You don't have to
3 subpoena a third party to get those messages. You have to
4 scroll up through your texts.

5 JUDGE ROSAS: Well, perhaps, you know, we can belabor this
6 as much as you want through counsel, but the hard -- the hard
7 evidence on this or the testimony sounds like it can only come
8 from the Respondent's witnesses. So I don't know who you've
9 subpoenaed. But -- but you know, all I'm hearing is, you know,
10 assertions from Counsel.

11 MS. CACACCIO: Your Honor, I've subpoenaed the
12 documents --

13 JUDGE ROSAS: I understand.

14 MS. CACACCIO: -- which -- okay.

15 JUDGE ROSAS: I understand.

16 MS. CACACCIO: Okay.

17 JUDGE ROSAS: Do what you have to do.

18 MS. CACACCIO: Okay.

19 JUDGE ROSAS: Next question.

20 Q BY MS. CACACCIO: Did your store ever go through a reset?

21 A It did.

22 Q Do you remember when that was?

23 A I do not recall the specific date.

24 Q Okay. Do you remember about when it was?

25 A It happened, I believe, either mid- to late October.

1 Q Was your store open or closed during the reset?

2 A The store was closed during the reset.

3 Q Did you go to the reset?

4 A I did.

5 Q And what was changed during the reset?

6 A Mainly the location of certain products, like syrups on
7 the hot bars, syrups on the cold bar, where we kept certain
8 things on brewing. The only area that we didn't really get to
9 was the drive-thru area because there was a person there
10 handle -- managing everything. It was -- it was a mess.

11 Q Prior to this reset you experienced in October, had you
12 ever experienced a reset in any of Respondent's stores
13 previously?

14 A No.

15 Q Was your store in Depew renovated?

16 A It was not renovated.

17 Q Had you ever heard about a renovation at your store?

18 A I have heard about renovations at our store.

19 Q Who told you about the renovation?

20 A Originally, MK did.

21 Q Okay. And how did you hear about it?

22 A I was shown plans for renovating the store.

23 Q And what plans were those?

24 MR. BALSAM: Objection. He said he was shown plans of the
25 store. This has been asked and answered.



1 MS. CACACCIO: It has not been asked and answered.

2 JUDGE ROSAS: Rephrase.

3 Q BY MS. CACACCIO: What -- I asked, what plans? What did
4 you see?

5 A I saw a concept of the store, in terms of renovation.

6 Q Were you told when the renovation was expected to occur?

7 A It -- I was told around March.

8 Q Of what year?

9 A Of 2022.

10 MS. CACACCIO: Can I have just a minute, Judge?

11 JUDGE ROSAS: Um-hum.

12 (Counsel confer)

13 MS. CACACCIO: We still on? Sorry.

14 THE COURT REPORTER: Um-hum.

15 MS. CACACCIO: Okay.

16 Q BY MS. CACACCIO: Did you notice any change to the way
17 rules were enforced, after the end of August of 2021?

18 A I did.

19 Q Which rules?

20 A Most notably, the rules to profanity and dress code.

21 Q Prior to the end of August of 2021, had you ever broken
22 the black-and-white letter of the dress code?

23 A The --

24 MR. BALSAM: Objection --

25 A What portion?

1 MR. BALSAM: -- to the form of the question.

2 JUDGE ROSAS: Rephrase.

3 Q BY MS. CACACCIO: Prior to the end of August of 2021, had
4 you ever worked any shifts where you weren't in the written
5 dress code?

6 A Yes.

7 Q What did you -- what were you wearing that would have
8 broken the dress code at that time?

9 A Usually, athletic shorts or sweatpants.

10 Q And how often would you say you wore either athletic
11 shorts or sweatpants, prior to the end of August of 2021?

12 A Pretty often.

13 Q Okay. And had you ever gotten in trouble for that, prior
14 to the end of August of 2021?

15 A No.

16 Q Had anyone ever spoken to you about it, prior to the end
17 of August of 2021?

18 A No.

19 Q And you mentioned swearing.

20 A Um-hum.

21 Q Had you ever sworn on the floor, prior to the end of
22 August of 2021?

23 A Yes.

24 Q How often would you say you did that?

25 A Fairly often. I have a very dirty mouth.



1 Q Had you ever been disciplined for swearing, prior to the
2 end of August of 2021?

3 A No.

4 Q Had anyone ever spoken to you about it, prior to the end
5 of August of 2021?

6 A No.

7 Q Did you ever -- when was the -- were you ever disciplined
8 with the Employer?

9 A I was disciplined for it.

10 Q When was the first discipline you received after the end
11 of August 2021?

12 A I received my first discipline for swearing on December --
13 December 3rd.

14 Q If I showed you a copy of that discipline, would you be
15 able to recognize it?

16 A I would.

17 Q Let -- before I do that, why don't we talk about what
18 happened on the 3rd, the day you received the discipline? What
19 happened that day?

20 A I was working a shift, and Jack and -- Jack Morton and
21 Tiffany Mann pulled me off to the side and handed me a -- I
22 believe the proper term for it is a corrective action form,
23 stating that it was my final written warning.

24 Q And if I showed you a copy of that, would you be able to
25 recognize it?

1 A I would.

2 Q Can you look at General Counsel's Exhibit 125?

3 Yep. Perfect. It's two-sided, so look at both sides,
4 please.

5 And what is General Counsel's Exhibit 125?

6 A The -- this is the final written warning that was issued
7 by both Tiffany Mann and Jack Morton for swearing on two
8 occasions.

9 Q Okay. And that partner statement -- whose handwriting is
10 in that box?

11 A That is my handwriting, although it looks a little neater.

12 Q And on the back page, is that your signature at the
13 bottom?

14 A That is my signature.

15 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
16 125.

17 MR. BALSAM: No objection.

18 JUDGE ROSAS: General Counsel's 125 is received.

19 **(General Counsel Exhibit Number 125 Received into Evidence)**

20 Q BY MS. CACACCIO: Why did you write that partner
21 statement?

22 A I wrote the partner statement because it was stated on
23 November 9th that Jack Morton had talked to me in regards to
24 swearing. This was not true. I initiated a conversation with
25 Jack Morton, but it was in regards to the scheduling resulting

1 in a poor play that was executed that day.

2 Q And how did Jack respond when you spoke to him on the 9th?

3 A He took the criticism well, and he updated the scheduling
4 to fit what I had asked him.

5 Q Did he make any comments to you about the language that
6 you had used?

7 A He did not.

8 Q After this discipline you received on December 3rd, did
9 you ever receive any other disciplines?

10 A I received one on December 9th.

11 Q And how did you receive the discipline on the 9th? What
12 happened that day?

13 A I was pulled off to the side by Tiffany Mann, who said
14 that she wanted to connect with me, and then that's when she
15 handed me the documented coaching in regards to the final
16 written warning.

17 Q Okay. And if I showed you a copy of that, would you
18 recognize it?

19 A I would.

20 Q Looking at General Counsel Exhibit 126 -- so again, flip
21 that over, pull that one out, and then flip it back over.

22 A Sorry. Struggling a little bit.

23 Q Okay. Is that your signature on the back?

24 A It is.

25 Q And is this the discipline that you received on December

1 9th?

2 A This is the discipline that I had received on December
3 9th.

4 Q At the --

5 MS. CACACCIO: I'm going to offer General Counsel 126, to
6 start with.

7 MR. BALSAM: No objection.

8 JUDGE ROSAS: General Counsel's 126 is received.

9 **(General Counsel Exhibit Number 126 Received into Evidence)**

10 Q BY MS. CACACCIO: Do you see on the first box, it says,
11 "Due to the delay in issuing the FWW"? What's FWW, if you
12 know?

13 A The FWW is a final written warning.

14 Q And on November 24th, do you see the first line beneath
15 that?

16 A I do.

17 Q What happened that day?

18 A I came into work wearing sweatpants.

19 Q And what happened?

20 A I was approached by Tiffany Mann, stating that the
21 sweatpants did look comfortable, but they were out of dress
22 code.

23 Q And what did you do?

24 A We said, okay, and we continued to work.

25 Q Did you go home?

- 1 A I --
- 2 Q Did you get sent home?
- 3 A I did not get sent home.
- 4 Q Were you told that you were going to get a write-up for
- 5 it?
- 6 A I was not told.
- 7 Q And looking at November 26th, the next line --
- 8 A Um-hum.
- 9 Q -- what happened that day?
- 10 A I -- am I allowed to swear?
- 11 JUDGE ROSAS: What's that?
- 12 THE WITNESS: Am I allowed to swear, when reading it?
- 13 JUDGE ROSAS: Exactly what was stated.
- 14 Q BY MS. CACACCIO: Yep.
- 15 A Okay. I said "fuck" over the headset.
- 16 Q Why did you do that?
- 17 A I was joking with coworkers over the headset, when there
- 18 was no one in the drive-thru and no -- and no one in the cafe.
- 19 Q And what happened after you did that?
- 20 A Tiffany Mann came onto the headset and just said,
- 21 language.
- 22 Q Did you see her at that point?
- 23 A I did not see her.
- 24 Q Do you know where she was?
- 25 A I believe she was in the backroom at the time.

1 MR. BALSAM: Objection. Move to strike. He said he
2 didn't see the witness. I mean, the -- the manager. Sorry.

3 JUDGE ROSAS: Sustained.

4 MS. CACACCIO: Your Honor --

5 Q BY MS. CACACCIO: Do you know where she was?

6 A She -- I believe --

7 Q Even though you didn't see her?

8 A Yeah, I believe she was in the backroom. She was doing
9 something in the back.

10 Q How do you know that?

11 JUDGE ROSAS: The backroom?

12 THE WITNESS: The backroom, yeah. There's a -- well,
13 backroom -- there's a swivel door that goes into where we keep
14 all of our supplies.

15 JUDGE ROSAS: I'll sustain that.

16 Try it again.

17 Q BY MS. CACACCIO: Was Tiffany Mann working that day?

18 A Tiffany Mann was working that day.

19 Q And if she wasn't in front, where -- where would she have
20 been to be able to hear you on the headset?

21 MR. BALSAM: Objection. The witness can't testify as to
22 what Tiffany could have heard and where she was, without
23 actually physic -- physically seeing her.

24 MS. CACACCIO: Your Honor, might I be heard?

25 JUDGE ROSAS: I'll allow it.



1 You can answer.

2 A Sorry. Could you repeat the -- the question?

3 Q That's okay. If you didn't see -- was Tiffany working
4 that day?

5 A She was working that day.

6 Q If you didn't see her out -- up front with you, do you
7 know where she would have been?

8 A She would have been in the backroom.

9 Q And how do you know that?

10 A Because she was, during that time, organizing a lot of the
11 things in the backroom or occasionally doing dishes, because
12 they tend to pile up.

13 Q And prior --

14 MR. BALSAM: Objection. Same objection. I mean, Tiffany
15 could have been in the bathroom. The witness didn't see her.
16 He's speculating as to where she was.

17 JUDGE ROSAS: You can probe on cross.

18 Q BY MS. CACACCIO: Prior to the end of August of 2021,
19 would managers wear headsets when they were not somewhere you
20 would have been able to see them where you were on the 26th,
21 when you said that?

22 MR. BALSAM: Objection. Form.

23 JUDGE ROSAS: Do you understand the question?

24 THE WITNESS: I was going to ask.

25 A Could you elaborate the question?



1 Q BY MS. CACACCIO: Prior to the end of August of 2021, when
2 managers were wearing headsets --

3 A Um-hum.

4 Q -- the rules that required the headsets --

5 A Um-hum.

6 Q -- prior to August of 2021 -- let me rephrase this again.
7 Given that you couldn't see Tiffany --

8 A Um-hum.

9 Q -- when this was go -- when this was happening on
10 August -- on November 26th --

11 MS. CACACCIO: I need a second, Judge. Hang on.

12 Q BY MS. CACACCIO: Given that you didn't see Tiffany, how
13 do you know that she heard you swear?

14 A She came onto the headset and just said, language.

15 Q And those floor coverage positions that typically wore
16 headsets prior to the end of August of 2021 -- are any of those
17 in the back, where Tiffany was?

18 A Typically, if you were in the back during that time, you
19 would be on -- maybe on CS -- customer support, for people who
20 don't know what CS is.

21 Q Was she that day?

22 A That day, she was not.

23 Q Did there come a time when you were separated from the
24 company?

25 A Yes. On March 21st of this year.



1 Q What happened that day?

2 A On that day, I was completing a shift. MK had came into
3 the store a little bit before. I know because I handed her
4 beverage. She sat off to the side, right by the bathroom, so
5 it was kind of hard to see. You -- given the layout of our
6 store, you have to sort of loop around outside of the bar, in
7 order to see where they are sitting.

8 After that, MG had excused herself off of the floor. And
9 towards the end of my shift, she approached the bar, and I sort
10 of knew that it was -- I was getting separated. I pointed to
11 myself. MG nodded. And removed my apron, clocked out, removed
12 my key off of the keychain, and then proceeded to get separated
13 from the company.

14 Q You said MG. Who is that?

15 A MG is Melissa Garcia.

16 Q Okay. And if I showed you a copy of the notice of
17 separation, would you be able to identify it?

18 A I would be.

19 Q Looking at General Counsel's Exhibit 127, what is General
20 Counsel Exhibit 127?

21 A This is my notice of separation.

22 Q Is that your signature at the bottom?

23 A That is.

24 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
25 127.

1 MR. BALSAM: Voir dire?

2 **VOIR DIRE EXAMINATION**

3 Q BY MR. BALSAM: Is this a complete copy of the notice of
4 separation you received?

5 A Yes.

6 Q Were you offered the opportunity to provide a statement --
7 a written statement in response?

8 A I was, but I did not send it.

9 MR. BALSAM: Nothing further. No objection.

10 JUDGE ROSAS: General Counsel's 127 is received.

11 **(General Counsel Exhibit Number 127 Received into Evidence)**

12 **RESUMED DIRECT EXAMINATION**

13 Q BY MS. CACACCIO: During your termination meeting, did
14 they tell you why you were being fired?

15 A Yes. We went over the --

16 MR. BALSAM: Objection --

17 A -- statement of --

18 MR. BALSAM: -- to the term "they".

19 Q BY MS. CACACCIO: Did someone tell you why you were being
20 fired?

21 A Yes.

22 Q Who told you why you were being offered?

23 A MK was going over the statement of the situation why I was
24 being fired.

25 Q Did -- were you told anything other than what's in this



1 block right here?

2 A I was not informed of anything else, other than what was
3 in the block.

4 Q For the incident that occurred on February 28th --

5 A Um-hum.

6 Q -- did you call the store?

7 A I did call the store.

8 MR. BALSAM: Objection. The incident, as reflected in
9 this notice of separation, reflects a February 25th, 2022,
10 date.

11 MS. CACACCIO: Nope. Bottom bullet. Top bullet on the
12 bottom.

13 MR. BALSAM: So hold on.

14 With -- withdraw. I withdraw the -- the objection.

15 JUDGE ROSAS: You withdraw?

16 MR. BALSAM: Yeah. I -- I see there's two separate dates
17 listed in the box.

18 Q BY MS. CACACCIO: Did you call the store on February 28th,
19 when you knew you were going to be late?

20 A I did.

21 Q What was happening that day?

22 A That day, it had snowed, and I -- given the intersection
23 that I had parked at, there was no way that I could get to work
24 without helping out the individual un -- like, unpack their car
25 from the snow.

1 Q And when you arrived -- did -- did you ever end up getting
2 to work that day?

3 A I did.

4 Q And what happened when you arrived?

5 A We laughed about it.

6 Q You say "we". Who's that?

7 A Sorry. "We" would entail Alyssa Scheida, MG, and Tiffany
8 Mann and I.

9 Q Who is Alyssa Scheida?

10 A Alyssa Scheida was, at the time, a shift supervisor at the
11 store in Depew.

12 Q Is that what she is now, as far as you know?

13 A As -- last time I heard, she was an assistant store
14 manager.

15 Q All right. And what about March 5th? Did you call ahead
16 that day?

17 A I did.

18 Q And who'd you call that day?

19 A I tried calling the store.

20 Q Okay. And did it work?

21 A It did not.

22 Q Okay. On February 25th, this -- this termination talks
23 about you sticking your finger in a drink. Can you tell me
24 what happened that day?

25 A Yeah. I was working a closing shift at the Orchard Park

1 location.

2 Q Had you ever worked in that location as a closer before?

3 A I had not worked as a closing shift at that store before.

4 Q And what happened?

5 A I had five partners with me, closing. And given that each
6 store has different closing tasks, I decided to dedicate two
7 out of the five people to work on the store-specific closing
8 tasks, because I don't know their store-specific closing tasks,
9 but I know how to run an overall line.

10 Upon continuing to work the shift, I realized that one of
11 the other -- one of the remaining partners was a very new
12 partner. And given my time with both training new partners and
13 seeing how new partners develop, I decided to pair the two
14 partners on bar so that they could receive adequate bar time in
15 order to help them grow. This left me to do drive-thru, food,
16 and front. And then CS was sort of neglected, but I did help
17 restock some things.

18 Q So what happened with the drink?

19 A After -- with the drink, it started to get a little more
20 busy, a little bit more hectic. So we worked through a small
21 rush. And I like to downplay stress by playing a joke, and so
22 I decided to play a joke here. The two had approached me with
23 a drink in hand, logo facing out, so I wasn't able to determine
24 if this was a practice drink or a real drink. And I thought it
25 was a practice drink because they had asked me what was the

1 difference between a wet and a dry cappuccino.

2 Q What did you do?

3 A That's where I played the joke, stuck my finger into the
4 drink. I don't know how to describe this motion. Rubbed my
5 fingers together, I guess, and just stated, oh, it looks dry
6 enough, to which the older partner, that I had paired the newer
7 partner with, and I laughed about it. When they informed me
8 that it was a drink instead for a customer, who was not present
9 at the time, I had the cup thrown away and the drink overall
10 remade.

11 Q Do you have copies of your call logs from your latenesses
12 on February 28th and March 5th?

13 A I do.

14 Q If I showed you a copy of that, would you be able to
15 recognize it?

16 A I would be able to recognize it.

17 Q Looking at General Counsel Exhibit 128.

18 A Is it the entire stapled package?

19 Q It's a package, yep.

20 A Okay.

21 Q Yep, fold it over.

22 A Wait.

23 Q What's the first page?

24 A The first page appears to be my call logs made on the
25 28th, going towards the 5th.

1 Q Okay. And what's the second page?

2 A The call log made toward -- on the 28th, towards the
3 Starbucks in Depew.

4 Q And what is page 3?

5 A A call made to MG on the 28th.

6 Q When it says, "cancelled call", do you know what that
7 means?

8 A I think that means I just hung up.

9 Q Okay. Do you know why -- do you remember why you hung up?

10 A If I recall correctly -- actually, no, I do not recall
11 why --

12 Q Okay.

13 A -- I hung up.

14 Q And what's page 4?

15 A Page 4 is a call made to Alyssa Scheida.

16 Q Okay. And what's page 5?

17 A Page 5 is a call made out to the Starbucks in Depew --

18 Q Do you --

19 A -- on March 5th.

20 Q -- know why that one says "cancelled"?

21 A Probably because I hung up, as well.

22 Q Okay.

23 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
24 128.

25 MR. BALSAM: No objection.

1 JUDGE ROSAS: General Counsel's 128 is received.

2 **(General Counsel Exhibit Number 128 Received into Evidence)**

3 (Counsel confer)

4 Q BY MS. CACACCIO: Do you remember why you hung up on March
5 5th?

6 A The call --

7 MR. BALSAM: Objection. Asked and answered.

8 MS. CACACCIO: Nope.

9 MR. BALSAM: He testified that he called and couldn't get
10 connected to the store.

11 MS. CACACCIO: That's not what he said.

12 JUDGE ROSAS: I'll allow it.

13 Q BY MS. CACACCIO: Do you remember why?

14 A Sorry. Repeat the question.

15 Q Do you remember why your call to March 5th didn't go
16 through?

17 A I recalled that the store -- that the number was being
18 rerouted to the corporate line.

19 (Counsel confer)

20 Q Did you end up -- were you given an opportunity to respond
21 to your termination?

22 A I was.

23 Q And had you planned to do that?

24 A I had.

25 Q And what happened?



1 A I just didn't send it.

2 Q Who was -- what were you supposed to send, and who were
3 you going to send it to?

4 A I was going to send my account of the terms of -- or the
5 notice of separation, and I was going to send it to MG, Melissa
6 Garcia.

7 Q When did you realize that it didn't send?

8 A That would have happened --

9 MR. BALSAM: Objection. Foundation. There's no --
10 there's no testimony that --

11 JUDGE ROSAS: Where are we going with this?

12 MS. CACACCIO: I'll withdraw.

13 JUDGE ROSAS: You have something you're going to try to
14 introduce?

15 MS. CACACCIO: I'll -- I'll withdraw it. It doesn't
16 matter.

17 Can we just have just a minute?

18 (Counsel confer)

19 Q BY MS. CACACCIO: What would you typically do with
20 practice drinks after they were made?

21 A They would be thrown out.

22 MS. CACACCIO: No further questions for this witness at
23 this time.

24 JUDGE ROSAS: Charging party.

25 **DIRECT EXAMINATION**



1 Q BY MR. DOLCE: Hey, man. Mike Dolce on behalf of the
2 Union. Just a couple clarifying questions here. Prior to
3 February 25th, 2022, was it customary to make practice drinks
4 with training partners?

5 A Yes.

6 MR. BALSAM: Objection to the term "customary".

7 JUDGE ROSAS: Rephrase.

8 Q BY MR. DOLCE: Did you regularly make practice drinks with
9 training partners?

10 MR. BALSAM: Same objection.

11 Q BY MR. DOLCE: How -- how often --

12 JUDGE ROSAS: Rephrase.

13 Q BY MR. DOLCE: How often would you make training drinks
14 with training partners?

15 A If the partner was relatively new, we'd have them make
16 drink -- like, practice drinks as often as we would allow. The
17 store is pretty busy, so whenever we got a free moment.

18 Q In your tenure with Starbucks, how often would you make --
19 how -- how many times would you make practice drinks?

20 A I made them pretty often, sometimes just to practice latte
21 or if I was bored.

22 Q And you would always --

23 A Toss the drink afterwards.

24 Q Okay. When you worked in a position that required a
25 headset, and then you had to go to the bathroom, would you

1 bring the headset with you into the bathroom --

2 MR. BALSAM: Objection.

3 Q BY MR. DOLCE: -- or would you --

4 MR. BALSAM: Objection. Form. Leading.

5 JUDGE ROSAS: Try to break that down.

6 Q BY MR. DOLCE: Did you ever bring a headset with you into
7 the bathroom?

8 A Only if I forgot. I would always take it off out of fear
9 that it might be on, and I did my business.

10 Q So it was --

11 A Off -- off of my head when I ever went to the bathroom.

12 Q What would you do with the headset when you went to the
13 bathroom?

14 MR. BALSAM: Ob -- objection. Relevance. Whe -- whe --
15 whether he personally takes a headset off when he goes to the
16 bathroom is not relevant at all.

17 JUDGE ROSAS: We'll give him a little leeway. Overruled.
18 You can answer.

19 A I would typically leave it on either the table, on top of
20 the pastry case, on top of the pastry cart, just somewhere that
21 I could easily pick it back up after I had returned from the
22 bathroom.

23 MR. DOLCE: Nothing further.

24 JUDGE ROSAS: Okay. Off the record.

25 (Off the record at 11:37 a.m.)

1 JUDGE ROSAS: Respondent cross.

2 MR. BALSAM: Thank you.

3 **CROSS-EXAMINATION**

4 Q BY MR. BALSAM: When you first commenced working for
5 Starbucks, were you issued a partner guide?

6 A That was a very long time ago, and I do not recall. I'm
7 sorry.

8 Q At any point in time, did you take -- have you looked at
9 the partner guide?

10 A Do you have an image or one that I can see the partner
11 guide because there's, like, the Field Ops Excellence (sic)
12 book, there's --

13 Q Are you aware of Starbucks' time and attendance policy?

14 A I am.

15 Q Are you aware of Starbucks' dress code policy?

16 A I am.

17 Q Are you aware of Starbucks' food and safety standards
18 policy?

19 A I am.

20 Q Are you aware of a policy that's prohibiting the use of
21 swear words in the store?

22 A That one I cannot tell you if I was aware of or not.

23 Q So your testimony is at no point during your employment
24 with Starbucks were you aware of the Starbucks policy against
25 swearing in the workplace?



1 A I mean, swear -- I just realize that swearing in general
2 out loud in public is probably not looked at positively.

3 Q All right. So my question was, at any point in time
4 during your employment with Starbucks, is it your testimony
5 that you were not aware of the policy that prohibited swearing
6 in the workplace?

7 A I was not aware. I had not read one. I was not aware,
8 sorry. Hadn't -- did not read one at the time. Or I did not
9 read one.

10 Q That's not my question. That's not my question. My
11 question is, were you ever aware during the time of your
12 employment with Starbucks of a policy that prohibited swearing
13 in the workplace?

14 A I was not aware.

15 Q So Mr. Park, during your direct exam, you were shown
16 corrective action forms, correct?

17 A Yes. Yes.

18 Q And the corrective action form is GC Exhibit 125. On the
19 top right corner it says, "11/23/2021". You were in fact
20 issued discipline for using the term "fuck" and "motherfucker",
21 correct?

22 A Yes.

23 Q And in that form, it specifically identifies you as ha --
24 having violated Starbucks policy, correct?

25 A Yes, towards the top, which is along with my mis -- the

1 Starbucks missions and values.

2 Q Right. So do you want to revise your testimony where I
3 asked you if you were aware if --

4 MS. CACACCIO: Objection.

5 Q BY MR. BALSAM: -- you were not --

6 MR. BALSAM: Let me finish the question.

7 Q BY MR. BALSAM: -- if you were not permitted -- if you
8 were aware of a policy at Starbucks that prohibited you from
9 using swear words in the workplace?

10 MS. CACACCIO: Objection.

11 JUDGE ROSAS: Hold on.

12 What's the basis?

13 MS. CACACCIO: One, it's argumentative. Two, the witness
14 already -- it's asked and answered.

15 JUDGE ROSAS: Okay. I'm going to sustain the objection
16 based on previous answer from the witness.

17 Q BY MR. BALSAM: Mr. Park, you were in fact given a copy of
18 GC Exhibit 125, which is the corrective action form dated
19 11/23/2021, which informs you that you're being disciplined in
20 part for abusing certain curse words such as "fuck" and
21 "motherfucker", correct?

22 A Correct.

23 Q And after you received this, the corrective action form,
24 you were in fact aware that you are not permitted to use that
25 type of language in the workplace, correct?

1 A Sorry, repeat the question.

2 Q Sure.

3 A Okay.

4 Q You received this form on 11/23/2021. You were in fact
5 aware that you are not allowed to swear in the workplace,
6 correct?

7 MS. CACACCIO: Your Honor, I'm going to object to the date
8 that Cou -- Counsel gave, the 11/23 date. That's not when he
9 received it.

10 JUDGE ROSAS: You want to correct that?

11 MR. BALSAM: I'll re -- I'll revise.

12 Q BY MR. BALSAM: On December 3rd, 2021, when you received a
13 copy of the corrective action form, which was created on,
14 according to the document, on November 23rd, you were in fact
15 aware that you are not permitted to swear in the workplace,
16 correct?

17 A Yes, at that point.

18 Q Mr. Park, turning to the corrective action form that was
19 created on December 7th, 2021, which, by your signature, you
20 received on December 9th, 2021. You testified that you were --
21 you were aware of Starbucks' dress code, correct?

22 A I was, yes.

23 Q All right. And based on Starbucks dress code, is wearing
24 sweatpants at work in compliance with that dress code?

25 A No, it's not.



1 Q And likewise, with respect to the incident described here
2 on November 26th, 2021 with respect to inappropriate language,
3 using the word "fuck" over the headset is in violation of
4 Starbucks policy, correct?

5 MS. CACACCIO: Objection. Asked and answered.

6 MR. BALSAM: It's a different instance, Your Honor.

7 JUDGE ROSAS: What's that?

8 MR. BALSAM: It's a different example; it's in a different
9 event.

10 JUDGE ROSAS: You're referring now to -- you're
11 backtracking to November 26?

12 MR. BALSAM: I'm referring to the corrective action form
13 issued on December 7th -- or created on December 7th, '21.

14 JUDGE ROSAS: That refers to the date of 11/26?

15 MR. BALSAM: Correct, Your Honor.

16 JUDGE ROSAS: That's a second incident. Overruled.
17 You can answer.

18 A Could you repeat the question one more time for me?

19 Q BY MR. BALSAM: Sure. In the corrective action form,
20 which is GC Exhibit 126, which you received on December 9th,
21 2021, by virtue of your signature, you were aware that using
22 the word "fuck" over the headset on November 26th, 2021 was a
23 violation of Starbucks policy, correct?

24 A At the point of December 9th, yes.

25 MR. DOLCE: Can we clarify something? May I?

1 MS. CACACCIO: No. No.

2 JUDGE ROSAS: Who's this?

3 MR. BALSAM: No, you can't.

4 MR. DOLCE: Sorry --

5 JUDGE ROSAS: No, just -- just -- just object.

6 Q BY MR. BALSAM: So Mr. -- Mr. Park, I just want to go back
7 because in your statement that you just said in response to my
8 question, you said as of December 9th, 2021, you were aware of
9 Starbucks policy regarding cursing.

10 A At that point.

11 Q But as you recall, based on --

12 A Based on number --

13 Q -- GC Exhibit 125 that you signed on December 3rd, 2021,
14 you testified that you were aware that you couldn't curse as of
15 that date, correct? December 1st?

16 A Correct. And the time that I had cursed was before the
17 final written warning was given as notified at the top of
18 the --

19 Q Right.

20 A -- statement of situation given on the -- the 9th of
21 December.

22 Q So as of December 3rd, 2021 -- just to clarify for timing,
23 as of December 3rd, 2021, it's your contention you were aware
24 that you were not allowed to curse?

25 A Yes. Sorry about that.

1 Q Now, with respect to the next in -- incidents addressed in
2 the corrective form, which is GC Exhibit 126, it refers to a
3 time and attendance issue, correct?

4 A That's --

5 Q And it says here, Minwoo arrived 30 minutes late for their
6 opening shift, resulting in an impact to the business, correct?

7 A Yes.

8 Q All right. Were you -- you were in fact 30 minutes late?

9 A I was in fact 30 minutes late. So I --

10 Q Just let me finish my question before you answer so that
11 the court reporter can get it down.

12 A Sorry.

13 Q Okay.

14 A I'm sorry.

15 Q So just to confirm everyone heard that, you -- you -- your
16 testimony is that you were in fact late by 30 minutes on
17 November 29th, 2021 for your shift, correct?

18 A Yes, I was. I was. Yes, I was.

19 Q Now, moving ahead to the inc -- incident that occurred on
20 February 25th, 2022, which had culminated your termination,
21 which is a notice of separation, GC Exhibit 127. Are you
22 there?

23 A Yes, I am.

24 Q Okay. Now, before we get to that, there's testimony from
25 you about your lateness on February 28th, 2022. Do you recall

1 that testimony?

2 A I do.

3 Q So just put GC Exhibit 127 to the side for a moment. I
4 want to take a look at GC Exhibit 128 with you, which is the
5 call log, apparently.

6 A Okay. Got you.

7 Q And I believe your testimony was that on February 28th,
8 2022, the only person that you contacted before your shift or
9 you had spoke to before your shift was Alyssa Scheida, correct?

10 A Yes, if that's how you pronounce her name. I apologize if
11 I mispronounced it before.

12 Q That's all right. Is that correct, though?

13 A I had tried to call the Depew store, and then some -- I
14 wasn't able to get a hold of MG. And then yes, I got a hold of
15 Alyssa afterwards.

16 Q And it's your testimony that on February 28th, 2022, when
17 you tried to call the -- the store, that the call was rerouted
18 to corporate was your testimony?

19 A A corporate line, yep.

20 Q Okay. Did you speak with anyone at corporate knowing that
21 the call was rerouted?

22 A No, I hung up immediately.

23 Q Okay. And that's reflected on page 2 of GC-128, which
24 indicates a five-second call to the Depew store?

25 A Yes.

1 Q Okay. Now, with respect to page 3 of GC Exhibit 128, on
2 the bottom here it says, for the call to MG --

3 A Um-hum.

4 Q -- that the call was cancelled. Did you not connect with
5 MG at all?

6 A All I -- I did not con -- connect with MG.

7 Q Did you actually -- did the call go through?

8 A The call did not go through, I believe.

9 Q Okay. And that's -- that's what canceled call means,
10 right? The call didn't actually --

11 A I believe so.

12 Q -- transmit to the next -- to the recipient?

13 A Yes, I believe so. Sorry about that.

14 Q And then on page 4, the call to Alyssa Scheida, which is
15 14 seconds, your testimony is that during that 14-second call
16 to her, you told her that you were going to be late to your
17 shift?

18 A Correct.

19 Q As of Ma -- as of February 28th, 2022, what was the
20 procedure that you were supposed to follow if you were going to
21 be late to work?

22 A It would be to call the store and notify that they were
23 coming late. If not, you would try to alert the shift
24 supervisor on the floor.

25 Q Alyssa Scheida was the shift supervisor at the time?

1 A Yeah. Correct.

2 Q When you mentioned something about GroupMe -- trying to
3 notify someone via GroupMe about you being late; is that
4 correct?

5 A Yes. That would be on the incident of March the 5th, I
6 believe.

7 Q And on March 5th, 2022, were you permitted or were you
8 instructed to be able to use GroupMe as a form of communicating
9 with your store with respect to lateness?

10 A I was instructed to call the store at the time.

11 Q But by using GroupMe as a form of communication, you in
12 fact were noncomplying with the -- on the attendance policy to
13 notify your store that you'd be late, correct?

14 A At the time, it would be -- or I think it would be
15 slightly ambiguous because our phone was not -- there was a
16 brief moment of -- at the time where our phone was just not
17 working, and we were actively trying to get it fixed.

18 Q Right. So my question was, as of March 5th, 2022, GroupMe
19 was not an appropriate form of communication for you to notify
20 your store that you would be late, correct?

21 A Correct.

22 Q So by virtue of using GroupMe, you were actually violating
23 the time and attendance policy, correct?

24 MS. CACACCIO: Your Honor, I'm going to object. The
25 witness already answered that question.

1 MR. BALSAM: No, that's not the question.

2 JUDGE ROSAS: I'll allow him to answer it if he can.

3 THE WITNESS: Okay.

4 A In -- in that regard, yes, it would be a violation of time
5 and attendance then.

6 Q BY MR. BALSAM: And in fact, on March 5th, 2022, you
7 didn't notify anyone that you were going to be late for work?

8 A I had actually sent a message to the GroupMe stating that
9 I was being pulled over and would probably be late.

10 Q Right. But as you just testified, that was not the proper
11 way to notify anyone at the store that you were going to be
12 late, correct?

13 A Then in that case, yes.

14 Q And then you testified that when you tried to call the
15 store in March of 2022, that the call had been rerouted to
16 corporate, correct?

17 A Yes.

18 Q Is that right?

19 A Yep.

20 Q Okay. But in fact, you actually never made the call to
21 the Depew store because based on your prior testimony, what
22 page 5 represents is that you never actually connected with the
23 Depew store based on the indication of canceled call, correct?

24 A Correct.

25 Q Just for clarification of the record, you were in fact

1 late on March 5th, 2022?

2 A Yes, by ten minutes.

3 Q Now, on February 25th, 2022, the incident that resulted in
4 your termination, the store itself was very busy, correct?

5 A Orchard Park is a busy store, yes.

6 Q So the store itself was very busy?

7 A Yeah.

8 Q On the day in question?

9 A Correct.

10 Q But nonetheless -- you knew the store was busy --
11 training -- trainer drinks were made?

12 A Yes, trainer drinks were made. The -- both in the event
13 that there was downtime, because the perh -- the person's shift
14 was quite long, and so I wanted to give them as much time as
15 possible to make drinks, as well as them just getting overall
16 experience from working on the bar.

17 Q Now, with respect to the drink in question in which you
18 put your finger in the drink, just like pretending it was a --
19 I'm sorry, practice drink is I think what you call it -- you
20 call it, right? A practice drink?

21 A Yes, I was under the impression it was a practice drink.

22 Q What made you -- what made you believe that it was a
23 practice drink?

24 A Given the fact that I had seen them making practice drinks
25 and there was no one left in the café or the drive-thru, I

1 thought they were making drinks -- they were practicing.

2 Q Did you a -- did you ask anyone whether it was a practice
3 drink before you stuck your finger in a drink?

4 A I did not.

5 Q You testified that the -- one of the partners in question
6 thought it was funny, you -- you sticking your finger in the
7 drink. Was that Justin (phonetic throughout)?

8 A That is Justin.

9 Q Okay. And what was the name of the other partner who was
10 present?

11 A I do not recall at the time. I had only worked with him
12 once.

13 Q Did that partner find it funny?

14 A I do not recall at the time.

15 Q Do you recall ever telling there was two partners that
16 they should not tell Sonia about what happened?

17 A I never said that.

18 Q You never said that? No?

19 A No.

20 Q Okay. And who was Sonja at the time?

21 A Sonia Velazquez, I believe, the -- I think that's her last
22 name, is the store manager at the Orchard Park location.

23 Q Mr. Park, by virtue of you sticking your finger in a
24 drink, whether or not it's a partner or --

25 A Practice drink.

1 Q Practice drink, sorry.

2 A Yeah.

3 Q Thank you. Or a customer drink, that would be a violation
4 of Starbucks' policy, correct?

5 A Whether it be practice drink or real drink, yes, it would
6 be.

7 Q Now, when you were terminated, you said the -- there were
8 two people present, correct?

9 A Correct.

10 Q You said MK was one individual?

11 A Correct.

12 Q And then MG was another individual?

13 A Correct.

14 Q Who read the notice -- notice of separation to you?

15 A I believe it was MK who -- yeah, MK who had read the
16 notice of separation to myself.

17 Q Are you sure about that?

18 MS. CACACCIO: Objection. Asked and answered.

19 JUDGE ROSAS: I'll allow it.

20 A I'm fairly certain.

21 Q BY MR. BALSAM: At the time that you were separated, did
22 you deny having engaging in any of the conduct that formed the
23 basis for your separation?

24 A I did not deny anything.

25 Q Because in fact, you did all the things that were listed

1 in the notice of separation, correct?

2 A Correct.

3 MR. BALSAM: Nothing further, Your Honor.

4 JUDGE ROSAS: Redirect.

5 **REDIRECT EXAMINATION**

6 Q BY MS. CACACCIO: Does the time and attendance policy talk
7 about what you're supposed to do if your store's phone doesn't
8 work?

9 A It does not.

10 Q Why did you send a text?

11 MR. BALSAM: Objection. Which test -- text is the --

12 JUDGE ROSAS: Date?

13 Q BY MS. CACACCIO: Why did you send a text at either time
14 when you were late?

15 A The only text sent would have been on March 5th. That was
16 because either I didn't -- wasn't able to reach the phone or
17 didn't place the call because a -- on March 5th, a police
18 officer was approaching me, and I thought it'd be good towards
19 not to be -- be in the middle of a call.

20 Q And on February 25th -- on February 25th, were -- was it
21 busy for the entire shift that you worked there at closing?

22 A No, there were some down -- there was limited downtime.

23 Q And in fact, when you stuck that finger in the drink, was
24 there anyone else there?

25 A Only the partners that were on the floor.

1 Q Were there customers?

2 A There were no customers.

3 MS. CACACCIO: One second, Judge.

4 Q BY MS. CACACCIO: Had you ever used the GroupMe message to
5 alert people that you were going to be late in the past?

6 A Yes.

7 Q Had you ever been spoken to about doing that?

8 A As of the, I want to say -- I can't recall the -- the
9 date, but there was a time where we all met together and talked
10 about time and attendance and calling out, so to speak.

11 Q Do you remember when that was?

12 A It had to have been towards the end of February because
13 Tiffany Mann was the one that led the -- the conversation.

14 Q And what happened in that conversation?

15 A We went over just all the general policies and rules of
16 Starbucks.

17 Q And included in that was calling the store?

18 A Yes.

19 Q Okay. And what did Tiffany say?

20 A I cannot recall off the top of my head.

21 Q What did you learn based on that meeting about how you're
22 supposed to notify people?

23 A Essentially, the main thing would be to call the store.

24 Q And prior to this conversation with tiffany, what had you
25 done to notify someone that you were going to be late?



1 A Either call the store, call the shift on, or send a
2 message to the group chat.

3 MS. CACACCIO: I have no further questions for this
4 witness at this time.

5 JUDGE ROSAS: Charging Party?

6 MR. DOLCE: Nothing from Charging Party.

7 JUDGE ROSAS: Any follow-up?

8 MR. BALSAM: No, Your Honor.

9 JUDGE ROSAS: Just one question. Is group chat the same
10 as Group --

11 THE WITNESS: GroupMe.

12 JUDGE ROSAS: -- Me?

13 THE WITNESS: Correct, one in the same. Sorry.

14 JUDGE ROSAS: Thank you. Your testimony is concluded. Do
15 not discuss your testimony with anyone until you're advised
16 otherwise by counsel, all right?

17 THE WITNESS: Okay.

18 JUDGE ROSAS: Have a good day.

19 THE WITNESS: Thank you. Thank you so much for the time
20 now. Sorry.

21 JUDGE ROSAS: Off the record.

22 (Off the record at 12:28 p.m.)

23 JUDGE ROSAS: On the record.

24 General Counsel.

25 MS. PENDER-STANLEY: General Counsel calls Iliana Gomez.

1 Whereupon,

2 ILIANA GOMEZ

3 having been duly sworn, was called as a witness herein and was
4 examined and testified as follows:

5 JUDGE ROSAS: All right. Loudly at all times, state and
6 spell your name, and provide us with an address.

7 THE WITNESS: Iliana Gomez, I-L-I-A-N-A G-O-M-E-Z. (b) (6), (b) (7)(C)

8 [REDACTED]

9 MR. BALSAM: Your -- Your Honor, if may we have just one
10 moment? We're having technology issues.

11 JUDGE ROSAS: Sure.

12 MR. BALSAM: Thanks.

13 UNIDENTIFIED SPEAKER: Just a crash?

14 MR. BALSAM: Yeah.

15 MS. PENDER-STANLEY: You're okay.

16 JUDGE ROSAS: You all set?

17 MR. BALSAM: No, just, like, a couple minutes. My
18 computer just crashed, so.

19 JUDGE ROSAS: Okay.

20 MR. BALSAM: We can go ahead.

21 JUDGE ROSAS: Okay.

22 General Counsel. Oh, you -- we already swore the witness
23 in. Go ahead.

24 MS. PENDER-STANLEY: Okay. Thank you, Judge.

25 DIRECT EXAMINATION

- 1 Q BY MS. PENDER-STANLEY: Hi, Iliana.
- 2 A Hi.
- 3 Q What are your pronouns?
- 4 A She/her.
- 5 Q And are you familiar with Starbucks Corporation?
- 6 A I am.
- 7 Q How?
- 8 A I've worked there for ten years.
- 9 Q When did you start?
- 10 A February of 2012.
- 11 Q Okay. Still work at Starbucks?
- 12 A I'm technically on a sabbatical, a leave of absence.
- 13 Q What location do you work at?
- 14 A The one on Delaware & Chippewa.
- 15 Q Have you ever had any -- any other store as your home
- 16 store?
- 17 A No.
- 18 Q And what's your current job position?
- 19 A Shift supervisor.
- 20 Q When did you start your sabbatical?
- 21 A February of 2020 -- 2 -- excuse me -- 2022.
- 22 Q And does it have an ending date?
- 23 A Yes, next February.
- 24 Q After your sabbatical ends, do you know if you'll have to
- 25 reapply to Starbucks?

1 A Not that I'm aware of, no.

2 Q How did you become eligible for a sabbatical?

3 A Once you've worked for ten years, you're allowed to do
4 what's called a "Coffee Break" and where you're guaranteed your
5 benefits and a position when you end that sabbatical.

6 Q Before February of 2022, what hours did you typically work
7 at Delaware & Chippewa?

8 A I was working from 25 to 35 hours a week.

9 Q What was your availability?

10 A I was open availability during the week except for
11 Fridays -- excuse me -- Saturdays and Sundays.

12 Q Who was your store manager?

13 A Robert Hunt.

14 Q Are you familiar with Workers United?

15 A Yes.

16 Q And are you familiar with the Starbucks Workers United
17 organizing committee?

18 A Yes.

19 Q How are you familiar with the committee?

20 A One, I was part of my store's committee, and I also
21 reached out to the Elmwood location.

22 Q Why did you reach out to the Elmwood location?

23 A To find out how we would form a committee and be able to
24 organize.

25 Q When did you reach out to the Elmwood committee?



1 A A few weeks after they had announced their -- their
2 campaign.

3 Q Do you know remember month that was?

4 A It would be September/October, I believe. Sometime in the
5 fall.

6 Q Have you done anything to show support for the Union while
7 at work?

8 A Yes.

9 Q What did you do?

10 A We --

11 Q What did you specifically do?

12 A Excuse me, sorry. I signed a statement -- a letter,
13 saying that we wanted to organize -- had intention on
14 organizing, and I wore the pin -- my union pin.

15 Q When did you sign the letter you referenced?

16 A That was in February of this year.

17 Q Prior to September 2021, who was your district manager?

18 A David LeFrois.

19 Q In your time working at Starbucks, how often did you meet
20 David LeFrois?

21 A I probably met him four times?

22 Q Was he the district manager your whole ten years at
23 Starbucks?

24 A No.

25 Q How often did you meet any prior district managers in your



1 time?

2 A Not a lot, maybe five times.

3 Q Did you ever meet anyone above the level of district
4 manager in your store after September 2021?

5 A No.

6 Q What about after September of 2021?

7 A Yeah -- well, yes, I met a couple of other management
8 people.

9 Q Do you remember any names?

10 A Rossann and then there was another person who I remember.
11 His name was Anthony.

12 Q How did you know Anthony was upper level at Starbucks?

13 A I was told by our support manager and -- yeah.

14 Q Are those the only two upper level people you recall
15 seeing in your store?

16 A Michaela, MK. There were a couple more people. I don't
17 remember their names. A lot of them didn't always introduce
18 themselves, and some of them didn't always use their numbers.
19 But I would be told after the fact once they had ordered that
20 that was corporate.

21 Q In September of 2021, about how many of those corporate
22 people did you see in your store on a shift you worked?

23 A You'd see four or five in the mornings initially.

24 Q Do you know where any of those people were staying while
25 they were in town?

1 A Yeah. So --

2 MR. BALSAM: Objection. Relevance.

3 MS. PENDER-STANLEY: This goes, actually, directly to the
4 issue we spoke about yesterday regarding the TikTok.

5 MR. BALSAM: Going there, okay.

6 JUDGE ROSAS: Overruled, you can answer.

7 A A lot of them were staying across the street at the
8 Westin. They would come in in the mornings to get their
9 coffee.

10 Q BY MS. PENDER-STANLEY: How do you know that's where they
11 were saying?

12 A We were told.

13 Q By who?

14 A Robert and by Heather and Gavin.

15 Q Who are Heather and Gavin?

16 A Our support managers.

17 Q Who's your current district manager?

18 A Michaela.

19 Q Have you ever met Michaela?

20 A Yes.

21 Q The first time you met her, did you recognize her?

22 A Yes.

23 Q How?

24 A She would come in in the mornings and -- to order her
25 coffee.

- 1 Q Were any support managers assigned to your store?
- 2 A Yes.
- 3 Q Who -- who was assigned to your store?
- 4 A Gavin and Heather.
- 5 Q Do you know their last names?
- 6 A I do not.
- 7 Q When did Gavin come to your store?
- 8 A He came pretty soon after Elmwood had announced their
- 9 campaign, so sometime early fall.
- 10 Q And how long did he say your story?
- 11 A A few months.
- 12 Q What about Heather? When did she come to your store?
- 13 A She came after Gavin left.
- 14 Q And how long did she say.
- 15 A She stayed up until I left.
- 16 Q Did you ever have any conversations with Gavin?
- 17 A I did.
- 18 Q Did he ever tell you why he was in your store?
- 19 A Yes. He told --
- 20 Q What did he say?
- 21 A He told us -- he told me that he was there to love up on
- 22 us. He was there to make us feel special because Starbucks
- 23 hadn't been loving upon us as they should have.
- 24 Q Where were you when he made that comment?
- 25 A We were in the back room.

1 Q Did you ever work any shifts with Gavin?

2 A Yes.

3 Q How often?

4 A I'd see him usually during all of my shifts at some point.
5 I would work in the mornings and he would either be there or he
6 would be coming in for his shift in the afternoon.

7 Q At that time in September 2021, do you know what hours
8 your store manager was working?

9 A He was working mostly mornings.

10 Q And did Gavin also work mostly mornings at that time?

11 A At first.

12 Q Did that change?

13 A Yes.

14 Q When did that change?

15 A A couple of weeks after he had arrived, they started
16 scheduling them, like, one manager in the morning, one manager
17 at night.

18 Q How do you know that?

19 A I saw them. I saw them with my own eyes. And I know
20 Gavin had mentioned it, at one point that they wanted us to
21 have somebody, a support at all times.

22 Q How often did your work hours overlap with your manager,
23 Robert Hunt?

24 A Pretty often. I was scheduled to work mostly mornings and
25 opens.

1 Q And what would you typically observe him do?

2 A He was normally off the floor. He'd be working on
3 scheduling or sort of tasks that weren't on the floor.

4 Q How often did your work hours overlap with Kevin?

5 A I'd say often.

6 Q And what did you observe him do in the store?

7 A He was more of a concierge provision, so he'd be
8 organizing drinks, handing them out, that kind of stuff,
9 greeting guests.

10 Q When Heather is in your store, how often does your work
11 overlap -- work hours overlap with hers?

12 A I would see her often.

13 Q Do you know about how much she worked per week?

14 A I don't know the hours, but she would always make comments
15 about how long her shifts were. She would say that she was
16 staying so late or she would -- you know, I've been here since
17 X number or whatever.

18 Q What did you observe, Heather, do while at the store?

19 A Heather was a lot more hands on. She was a lot more
20 critical of the way that we were laying out the store, the way
21 they were running the shifts. She was a lot more hands on,
22 more like a manager.

23 Q Prior to the Elmwood campaign, about how many employees
24 worked at your store.

25 A Between 15 and 20 employees.

1 Q Did that ever change?

2 A Yes.

3 Q When did that change?

4 A Late summer and early fall. There was a big shift in --
5 in hiring.

6 Q As of November of 2021, how many people worked at your
7 store?

8 A I feel like at the max it was 35.

9 Q Does the number of people employed at your store have any
10 impact on you as a shift supervisor?

11 A Yes.

12 Q What's the impact?

13 A We had a lot of people scheduled, way too many than were
14 needed, in my opinion. We had no tasks. We'd have to find
15 something for them to do. They just kind of got in the way.

16 Q Prior to September 2021, if as a shift supervisor, you had
17 too many people on the floor, what would you do?

18 A We were told to send them home to conserve labor.

19 Q What about in November after those new people came on?
20 What were you trying to do if you had extra people on the
21 floor?

22 A Find something for them to do.

23 Q And did that amount of scheduling, that amount of having
24 people on the floor, did that ever change?

25 A Yes.



1 Q When was that?

2 A After -- maybe, late October, November-ish, we started
3 losing hours. A lot less people were scheduled.

4 Q Did you talk to any manager about that change?

5 A Yes. I brought it up to Robert.

6 Q And why did you bring it up to Robert?

7 A Because it was now -- it was more difficult to run a shift
8 with less people.

9 Q And what did you say to Robert?

10 A I asked him why there were less people scheduled than
11 normal.

12 Q And what did he say?

13 A He told us that that was never meant to stay the way it
14 was, the hours and the number of people scheduled, I mean.

15 Q When was that conversation with him?

16 A It was sometime in the fall.

17 Q Did you ever attend any listening sessions held by
18 Starbucks?

19 A Yes.

20 Q When was that session?

21 A That was pretty soon after Elmwood had launched their
22 campaign, so I think September, October-ish.

23 Q Where was that session held?

24 A At the store.

25 Q What time of day was it?



- 1 A It was probably like 5 -- 5:00.
- 2 Q Was your store open during that meeting?
- 3 A No. They closed early.
- 4 Q Did it reopen afterward?
- 5 A No.
- 6 Q At the time of that meeting, what time did your store
- 7 normally close?
- 8 A 7.
- 9 Q How long did the meeting last?
- 10 A About 2 hours.
- 11 Q How many partners were at that meeting?
- 12 A Almost all of them.
- 13 Q From your store?
- 14 A From my store, yes.
- 15 Q How did you learn about the meeting?
- 16 A We were told that we were going to have a listening
- 17 session with corporate.
- 18 Q Who told you that?
- 19 A Our manager. It was also changed on the schedule.
- 20 Q You told whether you'd be paid?
- 21 A Yes.
- 22 Q What we were you told?
- 23 A We were told we would be paid.
- 24 Q And who told you that?
- 25 A Our manager.

- 1 Q Robert Hunt?
- 2 A Yes.
- 3 Q When did he tell you about the meeting?
- 4 A Say it again?
- 5 Q When did he tell you about the meeting?
- 6 A He told us a couple of days prior to it, if I'm not
- 7 mistaken.
- 8 Q Who from corporate was at that meeting?
- 9 A Michaela and MK.
- 10 Q And what happened during that meeting.
- 11 A We were asked to speak our grievances.
- 12 Q Who asked you to do that?
- 13 A Excuse me?
- 14 Q Who asked you to do that?
- 15 A Michaela.
- 16 Q And what happened?
- 17 A We talked a lot about training, pays -- pay and we were
- 18 also -- we were also told a little bit about the union. And
- 19 why wouldn't it be great for us to have a union.
- 20 Q Who told you that?
- 21 A Michaela.
- 22 Q Did you speak up during the meeting?
- 23 A I did.
- 24 Q What did you say?
- 25 A I mentioned that I'm from a family of union members. My

1 mother is a teacher. My father and cousin both drive trucks.
2 They have unions. So I know a little bit about it. And I
3 mentioned that. I mentioned how I felt that they were only
4 giving us the cons of possibly joining the union.

5 Q Did anyone respond when you said those things?

6 A Not directly.

7 Q Prior to this meeting in -- in 2021, would your store ever
8 close early for meetings?

9 A Yes.

10 Q When was that?

11 A It was early, when I first started. We would close for,
12 like, group meetings, like, store meetings, but we would
13 normally have other baristas close for us so that we could
14 start and maintain the hours.

15 Q And who would run those meetings?

16 A Our store manager.

17 Q Was anyone above the level of the store manager present
18 for those?

19 A No.

20 Q Was your store ever renovated?

21 A Yes.

22 Q When was that?

23 A There was a renovation in January.

24 Q Of what year?

25 A 2022. Sorry.

1 Q In your time working at Starbucks, had your store ever
2 been renovated before that?

3 A Yes.

4 Q When was that?

5 A February 2019.

6 Q And how long was -- was the store open during the February
7 2019 renovation?

8 A No.

9 Q How long was it closed for?

10 A It closed for a month.

11 Q And what was changed in the store in February 2019?

12 A The store was completely gutted and changed.

13 Q And what about the January 2022 renovation, when did you
14 learn about that?

15 A We learned a couple of days prior to, like, closing early
16 to start it.

17 Q And who told you about it?

18 A My manager.

19 Q When you say your manager, are you referring to your store
20 manager or to the support managers?

21 A To the store manager, Robert Hunt.

22 Q Was your store closed during that January renovation?

23 A We briefly closed early and then afterwards we were not.

24 Q And did you work after that renovation was complete?

25 A Yes.



1 Q What was different?

2 A They had put up a wall and they had knocked down another
3 wall.

4 Q Prior to 2022, so in 2021 and before --

5 A Um-hum.

6 Q -- did you ever switch shifts with another employee at
7 your store?

8 A Yes.

9 Q When you wanted to switch shifts, what would you do?

10 A We had a group chat on GroupMe, an app. We would normally
11 just text each other through that. It was open to the full
12 store. Our manager was on it, Robert. And we would normally
13 just put the shift that was available, someone would pick it
14 up, they would tag Robert, he'd okay it, that kind of stuff.

15 Q Were you ever disciplined for switching ships in this
16 manner prior to 2022?

17 A No.

18 Q Prior to 2022, did you ever call out of work?

19 A Yes.

20 Q When you had to call out, what would you do?

21 A I would usually text the manager, Robert, or anyone -- or
22 any of the other managers or I would call the store directly.

23 Q Would you ever use the group chat?

24 A Yes. That, too.

25 Q Were you ever disciplined for doing any of those things?



1 A No.

2 Q Did there come a time when your practice for switching
3 shifts changed?

4 A Yes.

5 Q When was that?

6 A It was around January 2022.

7 Q And why did you change your practice?

8 A Heather had said that the way that we were doing it was
9 not up to Starbucks standards, so she deleted the chat and had
10 us change the way we were doing it.

11 Q What about your practice for calling out, did that ever
12 change?

13 A Yes.

14 Q When was that?

15 A Around the same time.

16 Q And why did that change?

17 A Same thing. She said she was bringing us up to standard
18 and that we would have to contact her directly through a phone
19 call.

20 Q Did she ask you to sign anything?

21 A Yes.

22 Q What did she ask you to sign?

23 A We had to sign the time and attendance policy. We had to
24 sign the time and attendance policy in the Starbucks handbook.

25 Q Were you ever asked to sign any other policies out of the



1 handbook?

2 A Yes. The dress code policy and the partner relations
3 policy.

4 Q Who asked you to sign those policies?

5 A Both Robert and Heather on separate occasions.

6 Q When did Robert ask you to sign those?

7 A Robert had us sign the attendance policy back in late
8 summer, and Heather had us sign them in January.

9 Q After Robert had you sign the time and attendance policy
10 in late summer, did you change your practice on switching
11 shifts?

12 A No.

13 Q What about calling out?

14 A No.

15 Q Did you ever switch shifts during fall 2021 after you
16 resigned to that policy with Robert?

17 A Yes.

18 Q What about calling out?

19 A Yes.

20 Q Did you use the group chat to do that?

21 A I did.

22 Q Were you disciplined for doing that?

23 A No.

24 Q Did Heather say why she was having you sign these
25 policies?



1 A She wanted to bring us up to standard.

2 Q And are you the only one in your store who had to sign
3 them?

4 A No. Everyone in the store had to sign them.

5 Q How do you know everyone in the store had to sign them?

6 A She told us she was having everyone sign it.

7 Q Prior to September 2021, were you ever disciplined for
8 violating the dress code?

9 A Not disciplined.

10 Q Wheat about after 20 -- September 2021?

11 A No.

12 Q Were you ever spoken to it -- to about the dress code
13 after September 2021?

14 A Yes.

15 Q On what occasion?

16 A Gavin told me that my shoes were not up to code.

17 Q Had you ever worn those shoes before?

18 A Yeah.

19 Q To work?

20 A Absolutely.

21 Q Did you ever have any issue with your availability?

22 A Yes.

23 Q When was that?

24 A In the summer when we were asked to open up our
25 availability, all of the shift supervisors.



1 Q Who asked you that?

2 A Robert.

3 Q And what did he ask you to do specifically?

4 A He wanted us to have an open, close and a weekend shift
5 available.

6 Q And was that consistent with your availability at that
7 point?

8 A No.

9 Q How was it inconsistent?

10 A I didn't have any available weekend shifts.

11 Q How long had you had the same availability?

12 A For ten years.

13 Q And what came of Robert's statement that you had to change
14 your availability?

15 A I brought it up to him.

16 Q And what'd you say?

17 A He -- I told him that I had had the same availability for
18 ten years and that I had more than enough availability. I
19 opened and closed and I didn't want to change it. I also
20 brought it up to partner resources after the fact, and asked
21 them if I was okay. I was told that our -- they had to -- our
22 availabilities had to reflect what was needed for -- from the
23 store.

24 Q Did you ever have to change your availability?

25 A No.



1 Q Were you ever disciplined for failing to change your
2 availability?

3 A No.

4 Q In the ten years that you've worked at Starbucks, have you
5 ever received a raise?

6 A Yes.

7 Q Prior to 2021, do you know what those reasons were based
8 on?

9 A Our performance.

10 Q Did you ever learn of a seniority based raise at
11 Starbucks?

12 A Yes.

13 Q When did you learn about that?

14 A That was sometime in November -- October.

15 Q And how did you learn about it?

16 A There was a memo sent from Starbucks.

17 Q Do you remember when that race was supposed to go into
18 effect?

19 A They never specified when it would.

20 Q Did you receive any raise in 2021?

21 A Yes.

22 Q What raise was that?

23 A I believe it was our January raise. They pushed it to
24 October.

25 Q Was it seniority based?



- 1 A No.
- 2 Q Did you talk to anyone about that raise?
- 3 A I did.
- 4 Q Who did you talk to?
- 5 A Robert Hunt.
- 6 Q And what did you tell him?
- 7 A I told him that I did not think it reflected what I
8 deserved.
- 9 Q Why not? Or did you tell him why not?
- 10 A I did.
- 11 Q What did you say to him?
- 12 A I told him that I didn't think -- from his words, he would
13 always tell me he appreciated my work. He would always tell me
14 that I was running the store in quotes during our meetings.
15 And based on that and the fact that I did feel like I was
16 taking on a lot of responsibility because everyone was so new
17 and I was kind of the point person for the store. I felt like
18 I should be getting paid more.
- 19 Q What was his response?
- 20 A He told me to talk to MK.
- 21 Q Did you ever talk to MK?
- 22 A I did.
- 23 Q And when was that?
- 24 A About a week later.
- 25 Q What did you tell MK?

- 1 A Same thing. Yeah.
- 2 Q And what did MK say?
- 3 A She told me to wait for the seniority pay, that it would
- 4 be righted with the seniority pay.
- 5 Q Did you ever receive a seniority-based wage increase?
- 6 A I did.
- 7 Q When was that?
- 8 A That was in January.
- 9 Q Of 2022?
- 10 A Yes.
- 11 Q How did you learn what your raise would be?
- 12 A Robert took us to the side. He had written all of our
- 13 information on a piece of paper and he told it to us directly.
- 14 Q And what did he tell you?
- 15 A He gave me a number that was, maybe, a little less than a
- 16 dollar that what I was making at that time. And I told him I
- 17 was not happy.
- 18 Q And what did he say?
- 19 A He said he wished he could have done more.
- 20 Q Did you talk to anyone other than Robert about that
- 21 seniority raise?
- 22 A In management?
- 23 Q Yeah.
- 24 A No.
- 25 Q Did you ever talk to a support manager?

1 A Yes, I did. I spoke to Heather.

2 Q When did you talk to Heather?

3 A A little bit afterwards, so late -- excuse me, early
4 February.

5 Q And what did you say to Heather?

6 A I brought up the fact that I didn't feel like that was
7 even close to ten percent. And I asked her if she could do
8 something about it and who I could talk to.

9 Q And what did Heather say?

10 A She took down all the information and told me that she
11 would get back to me.

12 Q Did you say anything else to Heather in that conversation?

13 A Not that I recall.

14 Q Okay. Why did you decide to talk to Robert and Heather
15 about the raise?

16 A I was upset. I was upset by the amount that I was
17 receiving. I was making less than a -- a supervisor who had
18 been working for less time than I was. She came over from
19 Elmwood store and we had discussed our raises very openly on
20 the floor with all the baristas. And I found out that she was
21 making not much, but more than I was. And I feel like I
22 deserved more than that. I've been through quite a bit in the
23 last ten years. I have gone through very abusive managers. I
24 have --

25 MR. WHALEN: Objection. This witness is giving a

1 narrative.

2 JUDGE ROSAS: We'll cut it off there. Next question.

3 Q BY MS. PENDER-STANLEY: After the -- after your store
4 sent its letter announcing its campaign -- first of all,
5 when -- what month did that letter go out?

6 A February.

7 Q Was it early February or late?

8 A Early.

9 Q After that letter went out, did you notice any changes in
10 your store?

11 A Yes. There was a slight increase in the amount of people
12 that were working, they got their hours back.

13 Q Was Heather still at your store in February of 2022?

14 A Yes.

15 Q Did you have any conversations with her in February after
16 the letter went out?

17 A Yes. She wanted to talk to me about why we even wanted a
18 union.

19 Q Where were you when you had that conversation with her?

20 A By the ovens.

21 Q Was anyone else there?

22 A No.

23 Q About what time of day was it?

24 A It was morning.

25 Q And what did she say?



1 A She told me that she wasn't -- she didn't understand why
2 we wanted a union. She mentioned that she was part of a union
3 back in her home state, that we didn't know what we were going
4 to get ourselves into. She said that -- sorry -- the -- the
5 store that had unionized in Canada had not received a raise
6 that the rest of the Canadian stores had.

7 Q Iliana, how many facial piercings do you have?

8 A Two.

9 Q Which are -- what are they?

10 A My nose and my bridge.

11 Q How long have you had each of those?

12 A I've had those for about five years and --

13 Q When you say this --

14 A Sorry. I've had my nose pierced for about five years and
15 my bridge is going on -- well, I got it in February 2021.

16 Q Did you have them both in when you were working at
17 Starbucks prior to your break?

18 A Yes.

19 Q And did you wear a mask at that time?

20 A Yes.

21 Q Did you ever take your mask off in the store?

22 A Yes.

23 Q For what purpose?

24 A In the back room if I was eating or drinking or even just
25 to get a breather.

1 Q After you got your second piercing --

2 A Um-hum.

3 Q -- do you know whether any supervisor or manager saw you
4 with your mask off in the store?

5 A Yes.

6 MR. WHALEN: Objection. Calls for speculation.

7 MS. PENDER-STANLEY: It's did she know if someone saw her.

8 JUDGE ROSAS: If you know. Overruled.

9 THE WITNESS: Excuse me?

10 JUDGE ROSAS: Yes or no.

11 THE WITNESS: Yes.

12 Q BY MS. PENDER-STANLEY: How do you know that?

13 A Because I would talk to them directly when my mask was
14 off.

15 Q Did any super or -- supervisor or manager mention your
16 piercings to you?

17 A No. But I brought it up to them.

18 Q Who did you bring it up to?

19 A To Robert.

20 Q When did you bring it up to Robert?

21 A It was in the summer of 2021.

22 Q And what did you say to him?

23 A I asked him if he knew if it would be an issue once we
24 were allowed to take our masks off.

25 Q And what did he say to you?

1 A He told me, no. That he doesn't see any issue coming up
2 because of the way that Starbucks was moving. He assumed they
3 would be okay eventually.

4 MS. PENDER-STANLEY: Nothing further at this time.

5 MR. DOLCE: Nothing from Charging Party.

6 JUDGE ROSAS: Off the record.

7 (Off the record at 2:02 p.m.)

8 JUDGE ROSAS: On the record. Okay. You ready to go?

9 MR. WHALEN: Yes.

10 JUDGE ROSAS: Respondent cross-examination.

11 **CROSS-EXAMINATION**

12 Q BY MR. WHALEN: Good afternoon, Ms. Gomez.

13 A Hi.

14 Q Prior -- during the break, were you in the hall speaking
15 with anyone about your testimony?

16 A No.

17 Q You testified that you were hired with Starbucks in
18 February of 2012; is that correct?

19 A Yes.

20 Q And when you started, did you have an opportunity to
21 review the partner guide?

22 A It was ten years ago. I don't exactly remember, but I'm
23 assuming yes.

24 Q Did you acknowledge that partner guide?

25 A Yeah.

1 Q And that partner guide contained the time and attendance
2 policy, correct?

3 A Oh, yeah.

4 Q As well as the dress code policy?

5 A Sure.

6 Q That also -- and these policies were updated during your
7 tenure at Starbucks, correct?

8 A Many times.

9 Q Prior to September 2021, when did Robert become your
10 manager?

11 A Sometime in 2021. I don't remember exactly.

12 Q Would that be the summer of 2021, maybe?

13 A Yeah.

14 Q How was staffing when Robert arrived?

15 A Not great.

16 Q You stated that you were one of five partners at the store
17 that's been there since the pandemic?

18 MS. PENDER-STANLEY: Objection. That assumes facts not in
19 evidence. She didn't testify to that on direct.

20 JUDGE ROSAS: I'm going to sustain that. Take that a
21 notch back.

22 MR. WHALEN: Yes.

23 Q BY MR. WHALEN: You had been at the store prior to the
24 pandemic, correct?

25 A Yes.



1 Q And you're only one of the few partners that has been
2 there since before the pandemic?

3 A Yes.

4 Q And there was high turnover at the store between the
5 pandemic and -- the -- the beginning of the pandemic and
6 currently?

7 A Yes.

8 Q But the staffing has increased at the store as you
9 testified?

10 A Yes.

11 Q And prior to the pandemic, the store was in a state of
12 disrepair?

13 MS. PENDER-STANLEY: Objection. Assuming facts not in
14 evidence.

15 JUDGE ROSAS: I'll allow it. You can -- if you can answer
16 that.

17 A What do you mean by disrepair? Sorry.

18 Q BY MR. WHALEN: You testified that the store was renovated
19 in February of 2019?

20 A Yes.

21 Q And prior to that renovation, the store was, in your
22 opinion, not in good condition?

23 A No.

24 Q No, it was not?

25 A No, it was just ugly.

1 Q Just ugly?

2 A Yeah.

3 Q What renovations happened in February of 2019?

4 MS. PENDER-STANLEY: Objection. Asked and answered.

5 JUDGE ROSAS: I'll allow it.

6 A They re -- they gutted the entire thing, except for the
7 bathrooms. They moved the lobby backwards or back, made more
8 space for us in the back. And that's all.

9 Q BY MR. WHALEN: You also testified that you were aware of
10 a seniority based -- a seniority based pay increase while you
11 were working, correct?

12 A Yes.

13 Q You testified that you saw the -- that memo or email in
14 October?

15 A It was a memo. Yep.

16 Q Did you also see one in August?

17 A Say it --

18 Q Did you see a memo in August about the seniority based --

19 A Not that I remember.

20 Q -- increase?

21 A I don't remember the date. I'm sorry.

22 Q Okay. On direct you also testified that the store closed
23 early prior to these -- the beginning of these listening
24 sessions, correct?

25 A Yes.



1 Q Were you paid for those times when the store closed early?

2 A If the store was close early because of short staffing,
3 no. If we were in emergency weather situation, yes.

4 Q But you --

5 A But that happened very rarely.

6 Q But you testified to the store had closed early to have
7 storm meetings, correct?

8 A We weren't there to close them. Other people were closing
9 them.

10 Q Okay. But you were paid to attend those meetings?

11 A Yes.

12 Q You also testified that you signed the dress code at the
13 request of Robert and Heather, correct?

14 A Yes.

15 Q You testified also that you have two facial piercings?

16 A Yes.

17 Q And that you wore a mask while you had those facial
18 piercings in the store?

19 A Not always.

20 Q Excuse me. I'll rephrase that. You wore a mask in front
21 of customers while you were on the floor?

22 A There was a week when we were allowed to take off our
23 masks before COVID surged again and we had to put them back on
24 per Starbucks.

25 Q When was that week?



1 A Sometime in the summer.

2 Q Okay. And during your time at Starbucks, you were an open
3 supporter of the union, correct?

4 A Yes.

5 Q You wore a pin at work?

6 A Yes.

7 Q You were never disciplined for being a supporter of the
8 union; is that correct?

9 A No.

10 MR. WHALEN: All right. I don't have any further
11 questions.

12 JUDGE ROSAS: Any redirect?

13 MS. PENDER-STANLEY: No, Your Honor.

14 MR. WHALEN: Nothing from Charging Party.

15 JUDGE ROSAS: Thank you. Your testimony is concluded for
16 today. And mind you, you're under oath. You know, you can't
17 talk about it only -- to anyone until Counsel tells you, okay?
18 All right. Have a good day. Off the record.

19 (Off the record at 2:22 p.m.)

20 JUDGE ROSAS: General Counsel, next witness.

21 MS. PENDER-STANLEY: General Counsel calls Vianca Colon.

22 JUDGE ROSAS: Raise your right hand.

23 Whereupon,

24 **VIANCA COLON**

25 having been duly sworn, was called as a witness herein and was



1 examined and testified as follows:

2 JUDGE ROSAS: All right. Loudly at all times. State and
3 spell your name, provide us with an address.

4 MS. COLON: My name is Vianca Colon. It's spelled
5 V-I-A-N-C-A C-O-L-O-N, and my current address is (b) (6), (b) (7)(C)
6 [REDACTED].

7 **DIRECT EXAMINATION**

8 Q BY MS. PENDER-STANLEY: Hi, Vianca.

9 A Hello.

10 Q And what are your pronouns?

11 A My pronouns are she, her, they, them.

12 Q Are you familiar with Starbucks Corporation?

13 A I am.

14 Q How?

15 A I worked for Starbucks.

16 Q When did you work for Starbucks?

17 A I worked for Starbucks between September 2019 to March
18 2022.

19 Q What location did you work at?

20 A I worked at the location on Delaware and Chippewa, and
21 also the UB Commons location at the University of Buffalo.

22 Q When did you work at Delaware/Chippewa?

23 A I worked at Delaware and Chippewa from September 2019 to
24 May of 2021.

25 Q And when did you work at the UB Commons?



- 1 A I worked at the UB Commons from May 2021 to March 2022.
- 2 Q And what was your job position?
- 3 A Barista.
- 4 Q What was your availability at UB Commons?
- 5 A My availability at UB Commons was from Monday through
- 6 Friday, 3 p.m. to 7:30 p.m.
- 7 Q Did you ever take any leaves of absence from Starbucks?
- 8 A I did.
- 9 Q When was the first leave of absence?
- 10 A My first leave of absence was between August of 2021 to
- 11 September of 2021, and then my second leave of absence was in
- 12 November of 2021 to early January of 2022.
- 13 Q Before that first leave of absence, how many hours did you
- 14 typically work per week?
- 15 A Anywhere between 20 to 25 hours.
- 16 Q What about between the two leaves?
- 17 A Between the two leaves, I believe 15 to 20.
- 18 Q And what about after the second leave?
- 19 A After the second leave, 15 to 20.
- 20 Q Who was your store manager at UB Commons?
- 21 A Tina Zoner (phonetic).
- 22 Q Vianca, are you familiar with Workers United?
- 23 A I am.
- 24 Q How are you familiar?
- 25 A I believe they helped organize the union at Starbucks.

1 JUDGE ROSAS: Can you keep your voice up?

2 A I believe they helped organize the union at Starbucks.

3 Q BY MS. PENDER-STANLEY: And are you familiar with the
4 Starbucks Workers United organizing committee?

5 A Yes, I am.

6 Q How?

7 A They were the organizing committee for Starbucks.

8 Q Are -- were you a member of the organizing committee?

9 A No, I wasn't.

10 Q Did you ever show support for the union while working at
11 UB Commons?

12 A I did.

13 Q What did you do?

14 A I wore buttons as part of Workers United. I have open
15 conversations with my coworker about the union. But that's it.

16 Q Did you ever attend any meetings held by Starbucks in
17 September 2022?

18 A Yes.

19 Q What meeting did you attend?

20 A A listening session.

21 Q When was that?

22 A I believe in late September.

23 Q How did you learn about that meeting?

24 A I was informed by my manager.

25 Q And what did your manager tell you?



- 1 A I don't recall.
- 2 Q Okay. Why did you go to the meeting?
- 3 A It was implied that it was mandatory and we should go.
- 4 Q By who?
- 5 A Starbucks corporate.
- 6 Q Were you paid to attend this meeting?
- 7 A Yes,.
- 8 Q Where was the meeting held?
- 9 A At our store at UB Commons.
- 10 Q What time of day was it?
- 11 A It was in the afternoon.
- 12 Q Was your store open during the meeting?
- 13 A No, it wasn't.
- 14 Q How do you know that?
- 15 A I was closing that afternoon, and we had to close early
- 16 for the meeting.
- 17 Q What time would your store normally have closed in
- 18 September 2021?
- 19 A Around 9:00.
- 20 Q How long did the meeting last?
- 21 A I believe an hour.
- 22 Q Did your store reopen afterward?
- 23 A No.
- 24 Q How many partners attended that meeting?
- 25 A I don't recall.

1 Q And who from Starbucks Corporate was there?

2 A Greta Case, I believe, Adam Modzel, and there was one
3 other person, but I don't recall their name.

4 Q Had you ever met the corporate people before that meeting?

5 A No, I haven't.

6 Q I'd ask you to look at the document in front of you that
7 is marked General Counsel -- it's our General Counsel 130.
8 It's the first one.

9 MS. POLITO: Judge, I'm just going to note that there's no
10 basis for this witness to look at this document. It appears to
11 be notes from a listening session. It would be --

12 JUDGE ROSAS: What do you want to do with it?

13 MS. PENDER-STANLEY: They are her notes.

14 JUDGE ROSAS: What?

15 MS. PENDER-STANLEY: They are notes that she took from the
16 session.

17 JUDGE ROSAS: Hold on. Turn that over, miss, for a
18 second. And what do you intend to do with her notes?

19 MS. PENDER-STANLEY: Introduce them.

20 JUDGE ROSAS: Any other questions relating to her notes?

21 MS. PENDER-STANLEY: Just to lay the foundation.

22 JUDGE ROSAS: And the basis of admissibility of the notes?

23 MS. PENDER-STANLEY: They reflect what went on at a
24 meeting that's alleged in the complaint.

25 JUDGE ROSAS: Any objection?



1 MS. POLITO: Yes, Judge, there's an objection because it's
2 her notes. It's not the full transcription of what happened at
3 the meeting. So she can testify as to what she recalls at the
4 meeting, but to provide a summary of notes that's incomplete is
5 inappropriate to be introduced into evidence.

6 JUDGE ROSAS: Well, we'll have to elicit more information
7 in order to see exactly where that -- whether that's correct or
8 not. Okay. So turn that back over. Ask your next question.
9 The objection is overruled.

10 Q BY MS. PENDER-STANLEY: Do you recognize this document,
11 Vianca?

12 A Yes, I do.

13 Q What is this?

14 A These are the notes I took during that first listening
15 session.

16 Q How did you take these notes?

17 A I took them on my laptop.

18 Q Did you do that during the meeting?

19 A During the meeting, yes.

20 Q Why did you take notes?

21 A I felt compelled to because it seemed important.

22 Q Did you record the meeting?

23 A No, I didn't.

24 Q Why not?

25 A We were told that we weren't allowed to record using our

1 phones.

2 Q After you took these -- did you take these notes while the
3 meeting was going on?

4 A I'm sorry.

5 Q Did you take these notes while the meeting was going on?

6 A Yes, I did.

7 Q After the meeting, did you edit them?

8 A I corrected, like, grammatical mistakes, but that's the
9 most of it.

10 Q Did you add any substance to them?

11 A No.

12 Q And are these the full notes that you took from this
13 meeting?

14 A Yes, they are.

15 MS. PENDER-STANLEY: I'm going to offer General Counsel
16 130.

17 JUDGE ROSAS: Voir dire?

18 **VOIR DIRE EXAMINATION**

19 Q BY MS. POLITO: Ms. Colon, you've -- you testified that
20 you took notes on your laptop while you were at this meeting;
21 is that correct?

22 A Yes, that is correct.

23 Q Were you able to capture everything that was said by and
24 between all parties present or are these notes a summary of
25 what you heard?

1 A They're a summary of what I heard.

2 MS. POLITO: Judge, for that reason, I think that they
3 should be included. They don't -- as the witness just
4 testified, they're not a complete copy of what happened. And
5 again, she can testify, sitting here today, of what -- as to
6 what she recalls.

7 JUDGE ROSAS: Turn that back over. I'm going to sustain
8 the objection. You're going to have to elicit her recollection
9 first in the meeting.

10 MS. PENDER-STANLEY: I'm sorry. First in the -- I didn't
11 hear what you said.

12 JUDGE ROSAS: It's just a summary.

13 MS. PENDER-STANLEY: Right. You said her recollection
14 first, and then I didn't catch --

15 JUDGE ROSAS: You're going to have to elicit her
16 recollection of the meeting before I can consider whether to
17 receive this or not.

18 MS. PENDER-STANLEY: Okay. Okay.

19 Q BY MS. PENDER-STANLEY: So you don't have that in front of
20 you, right?

21 A No.

22 Q Okay. What do you -- what happened in that meeting to
23 your recollection?

24 A To my recollection, we had closed the store early. We had
25 had a coffee tasting with the people I mentioned before. They

1 introduced themselves as who they were. They asked us to
2 introduce ourselves. They proceeded to talk a lot about
3 Starbucks benefits, how great the company was, how that it
4 provides for partners, how they choose the support partners,
5 without much provocation. It was very off-putting.

6 Q What was said, though? What specifically was said?

7 A What was said?

8 Q Yeah.

9 A What they were planning on doing, that they were hiring
10 more people because of staff shortages, that they were changing
11 our nitro systems. They were changing our old ovens out. It
12 was expressed by partners that while it was appreciated that
13 all these changes are being made, it was off-putting because it
14 was very sudden, and just -- it seemed very pushy, how they
15 were pressing it.

16 Q What else happened at the meeting?

17 A I'm sorry.

18 Q What else happened at that meeting?

19 A At that meeting, I spoke out and also expressed that they
20 made me very uncomfortable. I'm not sure, like, where they're
21 coming from, and it's just very random. And they didn't
22 directly address my needs or, you know, my questions. That is
23 the best of my recollection.

24 Q Did the union come up at this meeting?

25 A I'm sorry.

1 Q Did the union come up at this meeting?

2 A It did.

3 MS. POLITO: Objection, leading.

4 JUDGE ROSAS: Sustained. Do you recall anything else in
5 the meeting?

6 MS. COLON: Well, the union was mentioned at the meeting.

7 Q BY MS. PENDER-STANLEY: Well, who talked about it?

8 A Corporate.

9 Q What did they say?

10 A They brought up how there is a union drive, how they
11 didn't want -- I can't really recall. I'm sorry.

12 Q Did you take notes during that meeting?

13 A I did take notes during the meeting.

14 Q If you were to look at those notes, would they refresh
15 your recollection of what happened at that meeting?

16 A They would, yeah.

17 Q Okay. Can you take a minute and just look at General
18 Counsel 130, front and back? And when you're done looking at
19 it, turn it back over?

20 A Okay.

21 Q Read through it, and then just look up when you're done so
22 I know.

23 A Okay.

24 Q You've had a chance to look at those notes?

25 A Yes, I did.

1 Q Does looking at those notes refresh your recollection
2 about what happened at that meeting?

3 A It does.

4 Q What else happened at that meeting?

5 MS. POLITO: I'm just going to object that -- because the
6 witness had said she didn't recall anything else regarding the
7 union discussion and the purpose for looking at the document
8 was about that discussion only, not the entire meeting.

9 JUDGE ROSAS: That's noted, Counsel, but it's perfectly
10 appropriate to use a document to refresh recollection.

11 THE COURT REPORTER: Can I ask the witness to please speak
12 into --

13 MS. COLON: Yes, I --

14 THE COURT REPORTER: -- the lower microphone.

15 MS. COLON: The lower microphone?

16 THE COURT REPORTER: Lower, yes.

17 MS. COLON: Okay.

18 THE COURT REPORTER: Face in your direction.

19 A Okay. So from my recollection and refreshing my notes,
20 from my notes, in regards to the union, one of the Starbucks'
21 representatives was willing to talk about a union and what's
22 happening. She gave us some basic facts about unions and the
23 purpose of unions, and so and so forth. And we had several
24 more questions, more just of a way about Starbucks unionization
25 and what the unionization efforts were looking like there. And

1 she said that we would have to do our own research and find out
2 for ourselves. Her answers were very vague and didn't give
3 anybody much more clarity about what's happening, as far as
4 unionization efforts. And yeah, that's it.

5 Q Okay. Did the people from corporate who were at that
6 meeting give their full names when they introduced themselves?

7 A They only provided their first names.

8 Q How did you learn their full names?

9 A I looked them up on LinkedIn.

10 Q When did you do that?

11 A Why did I do that

12 Q When?

13 A When. After the meeting.

14 MS. PENDER-STANLEY: I'll still offer 130.

15 JUDGE ROSAS: Well, Counsel, let me ask the witness. Does
16 any portion of the document contain any quotations or any
17 statements by management that you recorded as stated?

18 MS. COLON: Yes, it does.

19 JUDGE ROSAS: Can you tell us what statements were
20 recorded?

21 MS. COLON: May I look at the document?

22 JUDGE ROSAS: Yep.

23 MS. COLON: Statements recorded. It says the floor was
24 given to Kate. Kate began by stating that she will be,
25 quote/unquote, sharing facts from her experience. What else?

1 I wrote even when asked what she knew about the union, she
2 responded with, quote, we cannot speak on behalf of the union,
3 but we do encourage you to do your own research, end quote. I
4 believe that's all from the document.

5 JUDGE ROSAS: Okay. So Counsel, those statements can stay
6 in the record as a part of her recollection recorded as
7 extracted from this document, which I believe is a -- it sounds
8 like it's a combination of a summary, as well as past
9 recollection recorded of what was actually stated at the
10 meeting. So I'm going to exclude this. I'm going to sustain
11 the objection. I will place it in the rejected exhibit folder.

12 **(General Counsel Exhibit Number 130 Rejected)**

13 Q BY MS. PENDER-STANLEY: Vianca, did you attend any other
14 meetings after that September one?

15 A I did, yes.

16 Q When was the next meeting you attended?

17 A The next meeting I attended was sometime in October.

18 Q And where did that meeting take place.

19 A At a hotel close to UB Commons.

20 Q How did you learn about that meeting?

21 A We were all issued a -- or not issued, given a letter with
22 a request to come to this meeting at a scheduled time and
23 place.

24 Q Can you take a look at the next document in front of you,
25 which is General Counsel 131? Do you recognize the document?

1 A I do.

2 Q What is this?

3 A This is the letter given to me to let me know to attend
4 the next meeting.

5 Q Did you take the photograph of that document?

6 A Yes, I did.

7 Q What did you do with the photograph after you took it?

8 A I gave it to -- I don't remember their name, but the
9 person who I gave my affidavit to.

10 Q The National Labor Relations Board attorney?

11 A Yes.

12 Q Did you alter the photo after you took it?

13 A No.

14 Q And is that the full and complete letter that you
15 received?

16 A It is.

17 MS. PENDER-STANLEY: I offer General Counsel 131.

18 MS. POLITO: No objection.

19 JUDGE ROSAS: General Counsel's 131 is received.

20 **(General Counsel Exhibit Number 131 Received into Evidence)**

21 Q BY MS. PENDER-STANLEY: You can put that to the side now.

22 Did you go to the meeting referenced in that letter?

23 A I did.

24 Q Why?

25 A They gave the impression that it was mandatory.

- 1 Q What gave that impression?
- 2 A At the top corner that --
- 3 Q Did the letter give that impression?
- 4 A Yes, the letter gave that impression.
- 5 Q Was the store open for that meeting in October?
- 6 A I'm sorry.
- 7 Q Was your store open for that meeting in October?
- 8 A No. We had to close that day.
- 9 Q How many partners were at the meeting you attended in
10 October?
- 11 A I think right between 20 to 25 people.
- 12 Q And who from corporate was there?
- 13 A Greta Case, Deanna -- I don't know her last name, and one
14 other woman.
- 15 Q What happened in that meeting?
- 16 A We were all brought in. We did a COVID check, and we all
17 sat down in a big circle in front of a screen, and they gave us
18 a slideshow presentation about why unions are bad, why we
19 shouldn't support the union efforts, and so on.
- 20 Q How long did that meeting last?
- 21 A I believe about 45 minutes.
- 22 Q Did you speak at all during that meeting?
- 23 A No, I did not.
- 24 Q Why not?
- 25 A I was -- I didn't feel comfortable and I didn't feel safe

1 speaking at that meeting.

2 Q Were you paid to attend that meeting?

3 A I was.

4 Q Were you scheduled to work that day?

5 A I was scheduled to work that day.

6 Q Did you work that full shift?

7 A No, I did not.

8 Q Why not?

9 A Because we had to close the store early to have the
10 schedule meeting.

11 Q After you returned from your leave of absence in the
12 second one, when you returned in January 2022, did you observe
13 any changes to your store?

14 A I noticed that we had new equipment. Our storage rooms
15 had been rearranged. Some people's hours had been cut.

16 Q How do you know that?

17 A I talked with my partners.

18 Q Were your hours changed?

19 A They remained the same.

20 Q Were there changes other than to the storage room?

21 MS. POLITO: Objection, leading.

22 Q BY MS. PENDER-STANLEY: Did you observe any other changes
23 to your store?

24 A Not that I can recall.

25 Q Prior to your first leave of absence, what were the hours



1 at UB Commons?

2 A I believe 7 a.m. to 9 p.m.

3 Q How do you know that?

4 A Because those were our regular store hours.

5 Q Did there come a time when the store hours changed?

6 A During the winter when there is school breaks, it would
7 usually shorten -- they would usually shorten the hours because
8 there weren't as many students.

9 Q What would those hours be during breaks?

10 A I believe 7 a.m. to 7 p.m.

11 Q When you came back from your leave of absence in January
12 2022, was the school on a break?

13 A At the time, yes, it was.

14 Q And when that break ended, did the hours change?

15 A No, they didn't.

16 Q And did that have any effect on you?

17 MS. POLITO: Objection, relevance.

18 JUDGE ROSAS: I will allow that. Overruled.

19 A What was your question? Sorry.

20 Q BY MS. PENDER-STANLEY: Did that have any effect on you?

21 A The shortage of -- The cutting of hours, it did,
22 ultimately.

23 Q What was that effect?

24 A Right before I quit, I was working about 8 hours a week,
25 when I was formerly working 20 to 25 hours.

1 Q When you worked at Starbucks, was there a dress code
2 policy

3 A There was.

4 Q How did you first learn about it?

5 A During the training when I first started working for them.

6 Q Were you ever asked to look at the policy again?

7 A Yes.

8 Q When was that?

9 A I believe between September and November.

10 Q Of what year?

11 A 2021.

12 Q Who asked you to look at it?

13 A My manager.

14 Q Did she ask you to do anything?

15 A She asked me to sign it.

16 Q And did you?

17 A Yes.

18 Q When you worked at Starbucks, was there a time and
19 attendance policy?

20 A There was.

21 Q How did you first learn about that policy?

22 A During my training at Starbucks.

23 Q Were you ever asked to look at that policy again?

24 A Yes, I was.

25 Q When was that?



1 A I believe also during the time between September and
2 November.

3 Q And who asked you to look at it again?

4 A My manager.

5 Q Did she ask you to do anything with it?

6 A Just sign it.

7 Q And did you?

8 A And I did.

9 Q Nothing further at this time, Your Honor.

10 JUDGE ROSAS: Charging party, nothing from Charging Party?
11 Off the record.

12 (Off the record at 2:50 p.m.)

13 JUDGE ROSAS: Go ahead, Respondent cross?

14 **CROSS-EXAMINATION**

15 Q BY MS. POLITO: Ms. Colon, hi.

16 A Hello.

17 Q When you started at Starbucks, you received a partner
18 guide; is that correct?

19 A Yes, I did.

20 Q And you acknowledged receipt of the partner guide by
21 signing for that; is that correct?

22 A I don't recall signing it then.

23 Q Do you recall signing it at any point in time?

24 A I recall signing up between September and November.

25 Q So going back to when you were first hired, I believe you



1 said in September 2019, do you recall executing a document
2 acknowledging receipt of the partner guide?

3 A I'm sorry. Could you rephrase the question?

4 Q Sure. Go -- talking about the time when you were first
5 hired in September 2019, as part of your onboarding process, do
6 you recall receiving a partner guide?

7 A I do.

8 Q Do you recall signing for that partner guide?

9 A I don't recall signing for that partner guide.

10 Q Do you recall receiving the partner guide?

11 A I do recall receiving the partner guide.

12 Q And did you review the partner guide at that time?

13 A I did.

14 Q And then you told me that at some -- you told us earlier
15 that, at some point, you showed your support for the union by
16 wearing a pin; is that correct?

17 A That is correct.

18 Q You were never disciplined for wearing a pin; is that
19 correct?

20 A No, I wasn't.

21 Q And in fact, you were never disciplined for any of your
22 union advocacy, were you?

23 A No, I haven't.

24 Q You talked about the -- about attending two listening
25 sessions. Do you recall that testimony?

1 A Yes, I do.

2 Q And at that first listening session, you took your laptop
3 and you took notes.

4 A Yes, I did.

5 Q And why didn't you do that for the second meeting?

6 A Why didn't I do it at the second meeting?

7 Q Yes.

8 A I didn't have my laptop on me.

9 Q Do you know if someone else took notes at the second
10 meeting?

11 A No, I do not.

12 Q Do know if anyone recorded that second meeting?

13 A No, I do not.

14 Q And you told us that those were the first listening
15 sessions that you had intended.

16 A Yes.

17 Q But one of your colleagues had told you that they had
18 attended a listening session in the past, correct?

19 MS. PENDER-STANLEY: Objection. Assumes facts not in
20 evidence.

21 JUDGE ROSAS: Repeat the question. Repeat the question.

22 MS. POLITO: One of her colleagues had told her in the
23 past that they had attended a listening session. They opened
24 the door when they talked about listening sessions.

25 JUDGE ROSAS: And you are asking about another colleague



1 telling them that they attended another listening session?

2 MS. POLITO: That they had attended a listening session
3 prior to August 2021.

4 MS. PENDER-STANLEY: I think, A, it's hearsay and B, I
5 don't see the relevance.

6 JUDGE ROSAS: Hold on a second. She attended two
7 listening sessions starting in September, correct?

8 MS. PENDER-STANLEY: That's correct, Your Honor.

9 JUDGE ROSAS: Okay. Now, repeat the question.

10 Q BY MS. POLITO: You had indicated to us that you had never
11 attended any other listening sessions, correct?

12 A Correct.

13 Q One of your colleagues had told you that there had been a
14 listening session prior to August 2021, correct?

15 A That they had attended.

16 Q That's correct.

17 A There -- a listening session themselves.

18 Q That's correct.

19 A Yeah.

20 Q So the company had held a listening session prior to
21 August 2021 to your knowledge, correct?

22 MS. PENDER-STANLEY: Objection. It is based on hearsay.

23 JUDGE ROSAS: I assume that will be corroborated, counsel?

24 MS. POLITO: It's -- I --

25 JUDGE ROSAS: It's been corroborated?



1 MS. POLITO: It's in her affidavit. It's in her
2 affidavit.

3 MS. PENDER-STANLEY: It's in her affidavit. It's not in
4 testimony anywhere.

5 JUDGE ROSAS: Is this going to be corroborated?

6 MS. POLITO: It's --

7 JUDGE ROSAS: It's not corroborated in an affidavit.

8 MS. POLITO: Her affidavit says that this happened.

9 JUDGE ROSAS: Well, you can ask her about it.

10 MS. POLITO: That's what I'm trying to do, Judge. That's
11 what she said in affidavit.

12 JUDGE ROSAS: Okay. Well, the fact that it's in her
13 affidavit is one thing. That's hearsay there and so you're
14 reiterating that -- or listening that hearsay that's in the
15 affidavit. But in order for me to receive it, I'd at least
16 have to have corroboration through something else.

17 MS. POLITO: Okay.

18 Q BY MS. POLITO: Who told you that there was a listening
19 session prior to August 2021? Which one of your colleagues?

20 JUDGE ROSAS: Yeah, you can answer.

21 A My colleague, her name's Heather.

22 Q BY MS. POLITO: What is Heather's last name?

23 A I don't recall.

24 Q Do you know if she still works there?

25 A I don't know.

1 MS. POLITO: All set, Judge. Thank you. Nothing further.

2 JUDGE ROSAS: Any redirect?

3 MS. PENDER-STANLEY: No, Your Honor.

4 MR. WHALEN: Nothing further.

5 JUDGE ROSAS: Okay. Your testimony is concluded. Thank
6 you for coming today. Do not discuss your testimony with
7 anyone until you're advised otherwise by Counsel, okay?

8 MS. COLON: Thank you.

9 JUDGE ROSAS: Have a good day.

10 MS. COLON: You, as well.

11 JUDGE ROSAS: All right. Off the record.

12 (Off the record at 2:56 p.m.)

13 MS. PENDER-STANLEY: All right. General Counsel calls
14 Nicole Morton.

15 JUDGE ROSAS: Raise your right hand.

16 Whereupon,

17 **NICOLE MORTON**

18 having been duly sworn, was called as a witness herein and was
19 examined and testified as follows:

20 JUDGE ROSAS: All right. State spell your name. Provide
21 us with an address.

22 MS. MORTON: Nicole Morton.

23 JUDGE ROSAS: Hold on. Place the microphone closer to
24 yourself that -- yeah. And keep your voice up at all times.

25 MS. MORTON: Nicole Morton, N-I-C-O-L-E M-O-R-T-O-N. 

1 (b) (6), (b) (7)(C)

2 **DIRECT EXAMINATION**

3 Q BY MS. PENDER-STANLEY: Hello.

4 A Hi.

5 Q What are your pronouns?

6 A She, her.

7 Q And who is your current employer?

8 A Starbucks.

9 Q How long have you worked with Starbucks?

10 A I've worked there for about a year and nine months, so
11 almost two years.

12 Q What location do you currently work at?

13 A I work at the location on Transit and French.

14 Q Have you ever had any other store as your home store?

15 A No.

16 Q And what is your job position?

17 A I am a barista and a barista trainer.

18 Q Are you familiar with Workers United?

19 A Yes.

20 Q And are you familiar with the Starbucks Workers United
21 organizing committee?

22 A Yes.

23 Q When did you learn about the organizing committee?

24 A I learned about them when the Elmwood store filed to
25 unionize. That's when we started to learn about it.

- 1 Q Do you remember approximately when that was?
- 2 A Like the end of summer, that -- around that time.
- 3 Q And what you think of as the end of summer? Like, what
- 4 month?
- 5 A Like September maybe.
- 6 Q Have you shown support for the union at your store?
- 7 A I have.
- 8 Q What have you done?
- 9 A I have worn pins and talk to other partners about it.
- 10 Q What pins have you worn?
- 11 A I've worn the first one that came out, which just says
- 12 Starbucks Workers United, and then, I wore one that was a Pride
- 13 one, and then one when this situation happened.
- 14 Q When did you start wearing pins?
- 15 A Probably as soon as I learn about the organizing
- 16 committee.
- 17 Q Has there ever been a vote at your store about organizing?
- 18 A Yes.
- 19 Q When was that?
- 20 A I think it was in May. It was in the spring. So I think
- 21 midspring, mid-May.
- 22 Q Of what year?
- 23 A Of 2022.
- 24 Q And what was the result of that vote?
- 25 A We are unionized.

1 Q Nicole, what is your current availability?

2 A My current availability is I have full availability
3 Monday, Wednesday, and Friday. And then, Tuesday and Thursday,
4 I'm available until about 7 from open, and then I'm not
5 available on Sundays, and Saturdays, I'm available from open
6 until 5.

7 Q How long has that been your availability?

8 A Since school ended; so since May.

9 Q When you were in school, what was your availability?

10 A My availability was after classes, so 3 till close, and I
11 was only available on Fridays. And I had full availability on
12 weekends.

13 Q Prior to the campaign, when you were in school, how many
14 hours a week did you typically work?

15 A I typically worked around 25 to 30 hours.

16 Q When you were out of school, how many hours did you
17 typically work prior to the campaign?

18 A Prior, I worked around 30 to 35.

19 Q After the campaign started, did your hours change?

20 A They -- after it started, they were. But like, after a
21 while, after it started, they went down.

22 Q When was that?

23 A Probably in, like, wintertime, end of fall.

24 Q Was that change typical for when you're in school?

25 A Not as drastic as it was.



- 1 Q Who is your current store manager?
- 2 A My current store manager is Melissa Garcia or MG.
- 3 Q Nicole, I'm going to direct your attention to December
- 4 2021. Do you recall attending any meetings held by Starbucks
- 5 in that month?
- 6 A Yes.
- 7 Q When did you attend a meeting?
- 8 A I attended one in the middle of December. I think it was
- 9 15 December.
- 10 Q Where was that meeting held?
- 11 A It was held at our store.
- 12 Q How did you learn about the meeting?
- 13 A This meeting was put on the schedule.
- 14 Q Why did you go?
- 15 A It was scheduled as mandatory for us to go.
- 16 Q And what time of day was the meeting you attended?
- 17 A Mine was at night.
- 18 Q How long did the meeting last?
- 19 A It was about an hour and a half to two hours.
- 20 Q Was your store open during the meeting?
- 21 A No.
- 22 Q When did your store close?
- 23 A It closed in the afternoon, I'd say, around 3.
- 24 Q How do you know that?
- 25 A Because that was when the first meeting was set to start

1 so those people closed the store.

2 Q How do you know those people closed the store?

3 A They -- we talked about it, who was closing that day.

4 Q Did your store reopen after the meeting you went to?

5 A It didn't open until the next day.

6 Q And how do you know that?

7 A Because we locked up after it was done.

8 Q How many partners were at the meeting you attended on
9 December 15?

10 A About ten, at least ten.

11 Q And who from corporate was there?

12 A I remember Natalie, Melanie Joy, and MK were there.

13 Q What happened during that meeting in December?

14 A During that meeting, they talked -- and Natalie and
15 Melanie Joy and MK talked about utilizing and that they didn't
16 think we needed it. And just that they were going to support
17 us, and saying their opinions on it. And then, my one shift
18 manager spoke up about her feelings about it as well, and how
19 she wasn't in support it.

20 Q Did you speak during that meeting?

21 A I did. I talked to my shift manager and told her I
22 disagree with her. And then, I spoke to Natalie and MK and
23 Melanie Joy, And I told them my feelings about the things they
24 were doing, and I felt like it was union busting.

25 Q What specifically did you say?

1 A What's that?

2 Q What specifically did you say?

3 A I told them that what they were doing was unfair and that
4 we all felt pressured by them all coming here. And that if we
5 were to not unionize, I know that they would just leave right
6 after.

7 MR. BALSAM: Objection to strike. Unclear who the witness
8 was talking to during this particular response.

9 MS. PENDER-STANLEY: She said --

10 JUDGE ROSAS: I will allow you to elicit that on cross.
11 Overruled.

12 Q BY MS. PENDER-STANLEY: Did -- and who were you talking to
13 when you said that?

14 A I was speaking to MK and Natalie and Melanie Joy.

15 Q Did any of them respond to you?

16 A They didn't respond to me. They just, as a whole, said,
17 let's wrap it up.

18 Q After that meeting, Did you do anything differently at
19 work?

20 A I tried to speak out more, and I wore my pins almost every
21 shift.

22 Q And Nicole, does your store have a dress code?

23 A We do.

24 Q Prior to the meeting on December 15, were you ever spoken
25 to about the dress code?

1 A I was spoken to once by the manager at the time. His name
2 was Jack.

3 Q When you got hired, who was your manager?

4 A My manager was Nick.

5 Q Did Nick ever talk to you about the dress code?

6 A Briefly, he showed it to me, but we never went through it.

7 Q And when did Jack talk to you about the dress code?

8 A Before the meeting, he pulled us, one by one, to go and
9 look through the dress code and then we had to sign a paper
10 saying that we agreed to it.

11 Q And who is Jack?

12 A Jack was a support manager we got. He was our manager for
13 a little bit.

14 Q Did any other manager ever talk to you about the dress
15 code?

16 A Yes, another support manager that came.

17 Q Who was that?

18 A Her name was Tiffany.

19 Q And when did Tiffany talk to about the dress code?

20 A After the meeting, Tiffany talked to me about the dress
21 code during one of my shifts.

22 Q Where were you when she spoke to you?

23 A I was on bar making drinks.

24 Q What did she say?

25 A She told me that the pants I was wearing, that I had



1 previously warned too many shifts, were off dress code.

2 Q Did you respond?

3 A I told her that I had worn these before, but I said that I
4 would get different ones.

5 Q Had any other manager ever commented on those same pants?

6 A No, not on those pants, the other pants that I was wearing
7 when I spoke to Jack.

8 Q So after you talked to Tiffany that day, what did you do
9 next?

10 A Next, about a couple of days later, I chose the pants --
11 to wear the pants that I was wearing when I had my meeting with
12 Jack because I feel like he approved of them.

13 Q And what happened when you wore those pants?

14 A The first time that I wore them, when Tiffany saw me, she
15 said that they were okay.

16 Q And did you ever wear those pants again?

17 A I did.

18 Q How long after?

19 A Probably, a week after.

20 Q And what happened on that occasion?

21 A On that occasion, I went to the back room and Tiffany was
22 there, and she said, you're killing, Smalls, you are out of
23 dress code again.

24 Q And what did you say?

25 A I told her that previously she just told me that these

1 pants were okay.

2 Q And what did she say?

3 A She said that she would let me off that time because it
4 was her mistake.

5 Q Nicole, have you ever received a written warning From
6 Starbucks?

7 A I have.

8 Q And when was that?

9 A I received a January 2nd.

10 Q Of what year?

11 A Of 2022.

12 Q What was that discipline for?

13 A It was for swearing.

14 Q What happened on January 2, 2022?

15 A I was on bar making drinks and I went to the back to get
16 some of my water, and Tiffany stopped me and came up to me, and
17 she said that I had been doing good, but that she hasn't me
18 swear, but there was one occasion and they had to do something
19 about it. And she handed me the write-up, and told me what it
20 was for, and then asked me to sign it and said that I wasn't
21 admitting guilt, I just had to sign it to acknowledge that she
22 showed it to me.

23 Q Did you sign it?

24 A I did.

25 Q What happened next?



1 A She gave me a copy, and then I was about to go back on the
2 floor.

3 Q And what happened?

4 A And then, she told me that she was sorry about my dog
5 because he was -- he just got diagnosed with cancer.

6 Q I'm going to have you look at General Counsel Exhibit 132,
7 which should be the document right in front of you. Do you
8 recognize this document?

9 A Yes.

10 Q What is this?

11 A This is my write-up.

12 Q And did you take the photo that this document shows?

13 A I did.

14 Q How did you take the photo?

15 A I took it right after I got it, just took a picture of it.

16 Q What did you use to take the picture?

17 A My phone.

18 Q And after you took that picture, what did you do with it?

19 A I took the picture and I sent it to my sister.

20 Q Did you send it to anyone else?

21 A No, I just saved it to my phone.

22 Q Did you ever send the picture to me?

23 A Yes.

24 Q When was that?

25 A Yesterday.

1 Q And is this the full, complete picture that you took?

2 A Yes.

3 Q And this -- this the discipline that you received January
4 2nd?

5 A Yes.

6 Q Do you got a second page to it?

7 A There's just a back to it. I -- but there was nothing.
8 It was just a space for me to sign.

9 Q Did you sign it?

10 A I did.

11 MS. PENDER-STANLEY: I'm going to offer GC-132.

12 MR. BALSAM: Your Honor, I object. The reason the witness
13 has testified that this is not a complete copy of this
14 document. The second page, that has not been provided.

15 MS. PENDER-STANLEY: Your Honor, may I be heard briefly?
16 This document is a discipline that was subpoenaed from
17 Respondent, which we have not received. This is the copy that
18 the witness provided and this is what we have.

19 MR. BALSAM: I can verify whether or not we provided it
20 again.

21 JUDGE ROSAS: Let me know.

22 MR. BALSAM: I will.

23 JUDGE ROSAS: Let me know. Maybe you have a better copy.

24 MR. BALSAM: Okay.

25 MS. PENDER-STANLEY: Yeah, we're happy to substitute. If

1 you want the full two-pages, we're happy to put it in. I just
2 don't have it.

3 JUDGE ROSAS: Okay. You won't -- you can't figure that
4 out at the moment.

5 MR. BALSAM: Again, we've produced tens of thousands pages
6 of the documents. That's --

7 JUDGE ROSAS: Well, based on my previous ruling permitting
8 secondary evidence, based on the Respondent's current failure
9 to provide anything of this sort, for this particular -- for
10 this witness, as it relates to this incident, I'm going to
11 receive the document, overrule the objection. General
12 Counsel's 132 is received.

13 **(General Counsel Exhibit Number 132 Received into Evidence)**

14 MS. PENDER-STANLEY: Thank you. And if you are able -- if
15 we come up with the two-pager, we're happy to swap it out.

16 JUDGE ROSAS: Okay.

17 Q BY MS. PENDER-STANLEY: Okay. Nicole, looking at this
18 document in the upper righthand corner, do you see the date
19 created as November 23rd, 2021?

20 A Yes.

21 Q Did you work that day?

22 A I did not.

23 Q Do you -- in looking at the kind of description of what
24 happened, do you recall that incident?

25 A I do recall what happened in the bathroom, yes.



1 Q Do -- just -- you can turn that over. Tell me what
2 happened. When was that?

3 A So it was a shift I worked in November. It wasn't that
4 day, obviously, because I didn't work that day, but it was most
5 likely around that date. And we were --

6 Q What happened that day?

7 A -- we were closing and the shift manager on was a woman
8 named Taylor and she was a support manager from Arizona. And
9 it was me and two other baristas. And one of them was tasked
10 with going to clean the bathroom. And open headset it was said
11 that the bathroom had -- someone had gone to the bathroom all
12 over, and I went over there to see and that is when I must've
13 said what is stated.

14 Q Why do you say you must've said that?

15 A I don't remember the label as, like, what I actually said.

16 Q What time of day did that incident occur?

17 A It was at night because we were closed so around 8 or 9.

18 Q Were there any customers in the store?

19 A No.

20 Q Prior to the union campaign, had you ever used a swear
21 word in the store?

22 A Yes.

23 Q Do you ever hear anyone else swearing in the store?

24 A Yes.

25 Q Were you ever disciplined for swearing in the store?

1 A No.

2 Q After the January 2nd conversation you had with Tiffany,
3 did you have any other conversations with her?

4 A I did. I had one before I got my write-up. She was
5 pulling partners off the floor to connect and she pulled me off
6 the floor during my shift and --

7 Q So how long before the write-up was this?

8 A It was after the meeting so end of December.

9 Q And where did you connect with her?

10 A In the cafe at one of the tables.

11 Q And what happened in that conversation?

12 A In that conversation, she told me that we may have
13 different opinions, but that she'll still be here to support
14 me, and if I need anything. And that's when I talked to her
15 about potentially transferring to a different store.

16 Q What did you tell her?

17 A I told her that since I go to Canisius, which is downtown,
18 I'm farther away from Lancaster. I was thinking about
19 transferring -- transferring to save on gas money.

20 Q And what did she say?

21 A She told me that that sounded like a good idea and that
22 she would talk to me at another time about it.

23 Q Have you transferred since then?

24 A No.

25 Q Do you know how the transfer process takes place?



1 A You have go onto an application on the iPads in the store,
2 and -- called My Daily, and you see if there's a position open
3 at the store you're looking for, and then you contact the
4 manager, and you also let your own manager know. But you
5 cannot transfer if you had a disciplinary, like, write-up like
6 this until six months after.

7 Q When did you learn that fact?

8 A I didn't learn that until I got my write-up.

9 Q Nicole, do you know Angel Krempa?

10 A Yes.

11 Q How?

12 A She is -- was my shift manager.

13 Q Did you ever know Angel to be late to work on a day that
14 you were working?

15 A Just one time.

16 Q When was that?

17 A I believe it was March 20th, around that date.

18 Q Of what year?

19 A Of 2022.

20 Q How do you know that Angel was late that day?

21 A When she called the store, I answered the phone.

22 Q What did you do when you answered the phone?

23 A I asked her what was up, and she told me that her car was
24 having problems, and that she was going to be late to work.

25 Q What did you do after that?

1 A After that, I told the shift that was on that day, her
2 name was Mariah.

3 Q What did you tell Mariah?

4 A I told her that Angel was going to be late and that -- I
5 said just that, that she was going to be late?

6 Q Why did you tell Mariah that information?

7 A Because it's our policy to let a shift manager or a manger
8 know.

9 Q Did anyone from management ever talk to you about that?

10 A No.

11 Q Does Angel still work at Starbucks?

12 A No.

13 Q How do you know that?

14 A Because she -- when she was fired, I, sadly, had the --
15 her papers -- served her papers for it. I was the witness.

16 MS. PENDER-STANLEY: Nothing further, Your Honor.

17 JUDGE ROSAS: Charging Party? Nothing from Charging
18 Party. Off the record.

19 (Off the record at 3:19 p.m.)

20 JUDGE ROSAS: Ready? Respondent cross?

21 **CROSS-EXAMINATION**

22 Q BY MR. BALSAM: When you started working for Starbucks,
23 were you provided a copy of the partner guide?

24 A I was not provided with one. I was just shown it.

25 Q All right. And your testimony was that at some point in



1 time, you were provided a copy of the dress code, correct?

2 A Yes.

3 Q And you were asked to acknowledge receipt of it, correct?

4 A Yes.

5 Q And by virtue of you agreeing or acknowledging receipt of
6 it, you agreed to comply with the dress code, correct?

7 A Yes.

8 Q And in fact, at various points in time, you were not in
9 compliance with the dress code, right? At no point in time,
10 you were -- were you disciplined?

11 JUDGE ROSAS: Hold on. Did you answer?

12 MS. MORTON: Yes.

13 JUDGE ROSAS: What was your answer?

14 MR. BALSAM: No.

15 MS. MORTON: No.

16 JUDGE ROSAS: Okay.

17 Q BY MR. BALSAM: And you were disciplined for violating the
18 policy, correct?

19 A For the dress code?

20 Q Correct.

21 A No.

22 JUDGE ROSAS: What was your answer?

23 MS. MORTON: No.

24 JUDGE ROSAS: I guess you're a little too close.

25 MS. MORTON: Yeah, that's too hard.

1 Q BY MR. BALSAM: You also received a copy of the time and
2 attendance policy, correct?

3 A Yes.

4 Q And were you ever late to work?

5 A Maybe by three minutes one time, but never enough for it
6 to be an issue.

7 Q Okay. And you, again, were never disciplined for
8 violating the time and attendance policy?

9 A No.

10 Q And with respect to the discipline that you received on
11 January 2nd, '22, concerning an incident that occurred where
12 you were alleged to have used profanity, I believe your
13 testimony was that you were not sure if you worked on November
14 23rd, 2021; is that correct?

15 A Yes.

16 Q But you did, at some point in time, use the phrase "people
17 are fucking disgusting" at work, correct?

18 A Apparently. I remember the bathroom incident happening.
19 I don't remember what I said, though. I know I thought it was
20 disgusting, though.

21 Q Did you use profanity?

22 A I might have, yes. That's what Taylor heard.

23 Q I'm sorry.

24 A I said that's what Taylor remembered, then, I guess, yes.

25 Q So you have reason to question that you used the term



1 "people are fucking disgusting" or words of that effect at
2 work.

3 A No.

4 Q No, meaning you agree that you probably said something
5 like that.

6 A Yes.

7 Q You testified that you attended, I believe, two listening
8 sessions; is that correct?

9 A Yes,

10 Q And it was your testimony that you believe that they were,
11 in fact, mandatory meetings; is that correct?

12 A Yes.

13 Q Why did you believe that they were mandatory meetings?

14 A They were on our schedule like a shift would be, and those
15 are mandatory to go to, unless you're sick.

16 Q But --

17 A And you had to clock in for one of them, and then sign in
18 for another one.

19 Q You were paid to attend those meetings, correct?

20 A Yes.

21 Q At no point in time did anyone from Starbucks tell you
22 that those meetings were, in fact, mandatory, correct?

23 A Not explicitly.

24 Q So no.

25 A No.

1 Q In your affidavit that you submitted to the Board
2 concerning the incident on which you were disciplined, you talk
3 about someone saying over the headset that someone had peed
4 over the -- all over the toilet and made a mess of the
5 bathroom, correct?

6 A Yes.

7 Q By virtue of your statement to the Board, that would
8 suggest that the person was, in fact, in the bathroom wearing a
9 headset, correct?

10 MS. PENDER-STANLEY: Objection. The contents of her
11 affidavit is not the contents of her testimony.

12 JUDGE ROSAS: Hold on. Repeat that question, especially
13 as it relates to a headset now.

14 MR. BALSAM: Sure. So the witness has testified that
15 there was -- she overheard someone saying over a headset that
16 someone had peed in the bathroom. So my question was to --

17 JUDGE ROSAS: Oh, okay.

18 MR. BALSAM: -- wearing the -- a headset in the bathroom.

19 JUDGE ROSAS: Okay.

20 MR. BALSAM: What was -- I don't know what's
21 objectionable. I --

22 JUDGE ROSAS: Do it over. Do it over.

23 Q BY MR. BALSAM: The individual who made the statement
24 about pee being all over the toilet in the bathroom, were they
25 wearing a headset in the bathroom?

1 A They were going to clean it so they were, I guess, just
2 walking over there to go see what they needed to clean it, that
3 they needed to grab toilet paper and stuff. So yes.

4 Q So they wearing a -- they were wearing a headset.

5 A Yes.

6 Q Do you know Minwoo Park?

7 A Yes.

8 Q Have you ever seen Minwoo Park wear a headset in the
9 bathroom?

10 MS. PENDER-STANLEY: Objection.

11 JUDGE ROSAS: Hold on.

12 MS. PENDER-STANLEY: Relevance. It's outside the scope of
13 her direct. She didn't mention him once in her direct
14 testimony.

15 MR. BALSAM: It relates to the wearing of headsets in
16 bathrooms.

17 JUDGE ROSAS: What's that?

18 MS. PENDER-STANLEY: But she also didn't testify --

19 MR. BALSAM: It relates to wearing of headsets --

20 JUDGE ROSAS: Hold on. We are not -- cross discussion,
21 either of you. Everybody gets a chance. Respondent, finish
22 your offer.

23 MR. BALSAM: I said it relates the wearing of headsets in
24 the bathroom, which is what this witness just testified to
25 people doing. It goes to a practice, and individual wearing

1 headsets in bathrooms. And there's prior discussion from the
2 prior witness that that would be weird for someone to wear a
3 headset in the bathroom.

4 JUDGE ROSAS: Was there testimony on her direct
5 examination with respect to someone wearing a headset in the
6 bathroom?

7 MR. BALSAM: Yes, an individual that --

8 MS. PENDER-STANLEY: No, Your Honor, there was not.

9 MR. BALSAM: -- the individual that we're talking about,
10 who made the comment about urine being on the toilet seat,
11 which resulted in her making the comment about it being
12 disgusting with some profanity included.

13 JUDGE ROSAS: Okay. Insofar as it relates to the previous
14 witness, I'm going to sustain the objection, as far as the
15 wearing of -- that individual of a headset in the bathroom has
16 nothing to do with this particular line of questioning.

17 MR. BALSAM: Understood. Thank you, Your Honor. I have
18 nothing further.

19 JUDGE ROSAS: Redirect?

20 MS. PENDER-STANLEY: I have nothing, Your Honor.

21 JUDGE ROSAS: Charging Party? Nothing from the Charging
22 Party. Your testimony is concluded. Do not discuss your
23 testimony with anyone until you're advised otherwise by
24 Counsel. All right?

25 MS. MORTON: Yes.

1 JUDGE ROSAS: Have a good day.

2 MS. MORTON: Thank you.

3 JUDGE ROSAS: Off the record.

4 (Off the record at 3:37 p.m.)

5 JUDGE ROSAS: Next witness.

6 MS. CACACCIO: This is Natalie Wittmeyer.

7 JUDGE ROSAS: Raise your right hand.

8 Whereupon,

9 **NATALIE WITTMAYER**

10 having been duly sworn, was called as a witness herein and was
11 examined and testified as follows:

12 JUDGE ROSAS: All right. State and spell your name and
13 provide us with an address.

14 MS. WITTMAYER: My name is Natalie Wittmeyer,

15 N-A-T-A-L-I-E W-I-T-T-M-E-Y-E-R. My address is (b) (6), (b) (7)(C)

16 [REDACTED].

17 **DIRECT EXAMINATION**

18 Q BY MS. CACACCIO: Good afternoon, Natalie. Thank you for
19 coming on short notice. I appreciate it. What are your
20 pronouns?

21 A My pronouns are she/her.

22 Q Who is your employer?

23 A My employer is Starbucks.

24 Q And what is your home store?

25 A My home store is the Elmwood Avenue location at 933



1 Elmwood Avenue.

2 MR. WHALEN: Your Honor, we're going to make an objection
3 to this witness' testimony as being cumulative and duplicative.
4 We've already heard from three witnesses from the Elmwood
5 store. And in addition to that, there are no specific
6 allegations related to this witness in the complaint.

7 MS. CACACCIO: May I be heard? This witness' testimony,
8 Respondent can't know if it's cumulative or not, given that she
9 hasn't said anything but her name and her location. Second of
10 all, whether she is alleged in the complaint or not has nothing
11 to do with whether her testimony is going to be cumulative,
12 which it isn't. And we have recording, which we didn't have
13 previously, which is also not cumulative, which is given by
14 this witness, so I can't agree with what Respondent's saying,
15 obviously.

16 JUDGE ROSAS: Overruled. Let's see what she has to say.

17 Q BY MS. CACACCIO: How did you apply to work at Starbucks?

18 A I applied via the online application portal.

19 Q And when did you apply?

20 A I applied at the end of August of 2021.

21 Q And what happened after you applied?

22 A After I was -- after I applied, I was contacted by a
23 recruiter who -- his name's Chris. He told me he was here from
24 West Virginia, and I was given the standard interview to test
25 my fitness for the job.

1 Q When was your interview?

2 A My interview happened sometime in mid-September 2021.

3 Q And were you ever told that you got the job?

4 A Yes, I was. I was contacted by another recruiter named
5 Victoria over text to tell me that I had been picked for the
6 job.

7 Q Did you tell them what store you wanted to work in?

8 A Yes, I did. Originally, I wanted to work at the UB
9 Commons location, and after that, I specified that I wanted to
10 at the Delaware/Chippewa location.

11 Q When were you hired by the company?

12 A I was hired by the company on September 29th, 2021.

13 Q And who told you that you were going to be hired?

14 A I was told by the same woman, Victoria, that I was hired.

15 Q And at that point, did you know what store you were going
16 to be working in?

17 A No. I was only told that I was going to be doing
18 training.

19 Q When did you begin working at the Elmwood location?

20 A I began working at the Elmwood location at the end of
21 October 2021.

22 Q Do you know why it took from September 29th until October
23 25th for you to start working at Elmwood?

24 MR. WHALEN: Objection. This witness does not know the
25 answer to that question.

1 JUDGE ROSAS: If you know.

2 Q BY MS. CACACCIO: Do you know?

3 A I mean, the first delay was because I needed a week of
4 training previous to coming to the store, and then, after that,
5 I was told that it took so long for them to actually put me
6 into my position at Elmwood because there were renovations
7 happening at the Elmwood location.

8 Q And who told you that?

9 A I was told that by the manager at the time, Patty Shanley.

10 Q And where was Patty Shanley the manager of?

11 A She was the manager of the Elmwood location.

12 Q And where were you trained?

13 A I was trained at the Walden and Anderson location.

14 Q And who trained you?

15 A I was trained primarily by two support managers or ops
16 coaches. Their names were Amy and Tito (phonetic).

17 Q Do you know where Amy was from?

18 A Amy, I believe, was from Colorado.

19 Q And do you know where Tito was from?

20 A Tito was based in Rochester, New York.

21 Q When did you learn that you were going to be working at
22 Elmwood?

23 A I was told during my week of training at Walden and
24 Anderson that I was assigned to the Elmwood location.

25 Q Did you say anything to anyone about the store you'd been



1 assigned?

2 A I objected to that store, as I did not have the means of
3 transportation to get myself there. That's why I requested to
4 be put at Del/Chip instead, because I could take public
5 transportation more easily to get there.

6 Q And who did you raise those objections to?

7 A I brought this up to Amy, the trainer at Walden and
8 Anderson.

9 Q What did she say?

10 A She told me that they would look into it.

11 Q Did anything ever come of that?

12 A No, and I just started at Elmwood.

13 Q Can you talk to me about what the training process was
14 like at Walden and Anderson?

15 A So at Walden and Anderson, I was trained for five
16 consecutive days in the beginning of October. I was there for
17 five-hours shifts with a group of about 15 other new hires. I
18 was there with a few support managers and ops coaches. We
19 learned the basics of drinks, basic company policies and
20 trainings. But the store was closed to customers, so it was
21 just kind of like a simulated experience of how working at
22 Starbucks would look like.

23 Q Does that store have a drive-through?

24 A Yes, it does.

25 Q Was it open during your training?



- 1 A No, it was not.
- 2 Q So did you train on the drive-through?
- 3 A I did not.
- 4 Q Did you train on the POS system?
- 5 A Yes, I did.
- 6 Q And how long did you do that, would you say?
- 7 A Probably out of the 25 hours that I was there, probably
8 about half an hour of that went to the POS system training.
- 9 Q Can you tell us POS is?
- 10 A POS is the -- the cash register.
- 11 Q Did you train on making food?
- 12 A I was not able to be trained on food, because the Walden
13 and Anderson location was closed to customers, so they weren't
14 receiving shipments of food, and we didn't have anything to
15 practice with.
- 16 Q Do you know what store the other people you were training
17 with were being assigned to?
- 18 A I know for sure there were a couple people who were going
19 to Orchard Park. I know one person was going to Camp Road, and
20 there were some people who were going to Sheridan and -- and
21 Bailey.
- 22 Q At the time that you completed training, did you feel
23 comfortable working in the store with live customers?
- 24 A I did not.
- 25 Q Why not?

1 A Because, I mean, I think we all know that Starbucks is a
2 really fast-paced working environment, and a lot of the job
3 consists of thinking on your feet, responding to people's
4 complaints in real time, and not having actual people in the
5 store did not prepare me for 50 percent of the stress of the
6 job.

7 Q When you started at Elmwood, did you tell your coworkers
8 where you'd been trained?

9 A Yes, I did.

10 Q And what happened when you started working in a store that
11 had customers?

12 A I was not prepared for the -- the level of speed that was
13 needed.

14 Q Did anyone in your store help you?

15 A Yeah. In particular, a few people really came out of the
16 woodwork to help me with -- with, like, actually learning the
17 basics in a real store with customers. These people were
18 Michelle Eisen; Cassie Fleischer; Jeremy Blue (phonetic), who
19 is a former employee; Alyssa Warrior, who was a new hire; and
20 then, the support managers who were at our store, who were Matt
21 and Dustin.

22 Q And what did Matt and Dustin do with respect to helping
23 you when you got to the store?

24 A With respect to helping me when I got to store, Matt and
25 Dustin primarily shadowed me for a lot of the time that I was

1 there. If I was assigned to be working on the espresso bar,
2 one of them would be, you know, right next to me answering
3 questions or -- or correcting things or in the event of a lot
4 of customers, preparing the drinks so that I could more
5 reasonably make them.

6 Q How often did you work a shift without a manager present
7 at Elmwood after you started there?

8 A It was really rare. I think out of the shifts that I
9 worked from the end of October to December, maybe two or three
10 were without a manager there.

11 Q Did there come a time when you learned that Elmwood was
12 going to be undergoing another renovation?

13 A Yes, I did.

14 Q Who told you that?

15 A I was told that by Patty Shanley, the manager of Elmwood
16 at the time.

17 Q And what did she tell you?

18 A When I first got there, she showed me -- I -- I was hired
19 and brought into the store, like, two days after they had just
20 finished the first renovation, and when I was there, she was
21 showing me around, showing me all the new stuff that had been
22 implemented, and then made a comment about, oh, the sinks by
23 the -- the espresso bars are not up to speed yet, but there's a
24 couple things like that. And that's coming in a new renovation
25 that we're going to get -- get sometime in January or February.

1 Q Did that renovation happen?

2 A No, it did not.

3 Q After you were hired, how many employees were hired at
4 Elmwood?

5 A I was hired in a group of probably seven or eight people
6 that came in in the beginning of November or the end of
7 October, and then, after that period, there was one person,
8 Maeve O'Brien (phonetic), who transferred in in -- around
9 March. And then, we got two new hires, Melina (phonetic) and
10 Al (phonetic) at the end of May or the beginning of June. And
11 then, in June, we had another hire, Aesha (phonetic). So three
12 people after the -- after I was hired and all those other new
13 people were brought in.

14 Q Had your store lost any people since you were hired?

15 A Yes. I was told at the time that I was hired there were
16 about 40 people in the store, and by the time that we were
17 hiring new people, there was about 20.

18 Q Did anyone from Respondent's management ever have any
19 conversations with you about the Union?

20 A Yes.

21 Q When did that happen?

22 A In a store meeting that took place on November 8th, and
23 then in a two-on-one -- the two being management and one being
24 me -- sit-down that we had sometime early November 2021.

25 Q Do you remember one at -- let's talk about the -- the --

1 the meeting you described as a two-on-one. Do you remember
2 when that was?

3 A This took place sometime between October 26th, which was
4 my first day at the store, and November 4th, which was the
5 Christmas holiday launch.

6 Q Why do you remember it happening in that specific time
7 frame?

8 A I remember the Christmas launch, because we were -- in the
9 conversation, I had deflected from talking about the Union with
10 management and focused more on the Christmas launch and the new
11 drinks that we were going to have for the holiday season.

12 Q Did you record this conversation?

13 A No, I did not.

14 Q Who was part of this conversation?

15 A This conversation was Kelly, who was another support
16 manager, and Patty Shanley.

17 Q Where did you have this conversation?

18 A This conversation took place in the lobby at Elmwood
19 Starbucks.

20 Q And how did you come to be in this conversation?

21 A I was working on the floor at the time in the middle of my
22 shift, and I was told by another barista who had finished their
23 two-on-one to go out and have this conversation with
24 management.

25 Q And what was said in this conversation?



1 A In this conversation, they reminded me that ballots were
2 about to come out, that the company really encouraged me to
3 vote no and consider my relationship with the company. They
4 explained to me that because I was new, maybe I didn't
5 understand that the people who had been there previously
6 supported the Union because -- because of lapses in management
7 of the Buffalo market.

8 And I was told that the company wanted to prove to me that
9 they could fix the things that had made the previous employees
10 upset and that if they just -- if I voted no this time to see
11 what would happen, see if they could provide on these promises
12 to me, and then, the market still continued to have issues, we
13 still had issues in the store at Elmwood, then, in a year --

14 MR. WHALEN: Objection. The question was what the
15 conversation was about.

16 MS. CACACCIO: That's exactly what she's testifying to.

17 JUDGE ROSAS: Well, take it from there. Next question to
18 continue.

19 Q BY MS. CACACCIO: And what happened then?

20 A After that point was brought up in the middle of the
21 conversation, I was -- they told me that if I voted no this
22 year and allowed Starbucks to have the next year to prove
23 themselves to me, in another year the Union would be eligible
24 (sic) to try to have another election, and that, potentially, I
25 could vote yes if I didn't feel satisfied with the company's

1 performance.

2 Q Did you say anything in this conversation?

3 A I avoided talking about the Union, because I was not
4 comfortable talking about the Union to management at the time.
5 I just talked about the holiday launch that was coming up.

6 Q How long did this conversation last?

7 A Probably about ten minutes.

8 Q Was it optional?

9 A It was not optional.

10 Q Were there any other baristas in this conversation,
11 besides you?

12 A No, everybody else was still working on the floor.

13 Q Now, you mentioned you attended a listening session. How
14 many did you attend?

15 A I only attended one.

16 Q And when was that listening session?

17 A That was on the night of November 8th.

18 Q How did you learn about the meeting?

19 A I was invited in a paper invitation that was given to me
20 with my tips.

21 Q And what, if anything, was told to you about your
22 attendance at this meeting?

23 A Not much, but I -- there were two sessions, and I was
24 encouraged to come to the first one and not the later session.

25 Q By who?

- 1 A By management.
- 2 Q And what did management tell you about this meeting?
- 3 A Very little. I learned most about it when I actually
4 arrived.
- 5 Q And you said management. Who were you talking to about
6 the meeting?
- 7 A Management being Patty Shanley and the support managers,
8 Dustin and Matt. But primarily Patty.
- 9 Q Did you go to the meeting?
- 10 A Yes, I did.
- 11 Q And how did you get there?
- 12 A I drove.
- 13 Q What happened when you arrived?
- 14 A Well --
- 15 Q Did you drive alone or with anyone else?
- 16 A I drove alone.
- 17 Q And what happened when you got there?
- 18 A When I got there, Cassie Fleischer and Michelle Eisen were
19 pulling into the parking lot, and we met up outside to go in
20 together.
- 21 Q What happened then?
- 22 A We -- as we went to enter the lobby of Elmwood Starbucks,
23 they allowed me to come in, but they did not allow Michelle and
24 Cassie to attend this meeting.
- 25 Q And what did you observe about the interaction between

1 Cassie, Michelle, and management?

2 A It was --

3 MR. WHALEN: Objection. This is -- this has already been
4 testified to by previous witnesses, and this is completely
5 cumulative and duplicative of evidence they've already given.

6 JUDGE ROSAS: Is this point corroborative?

7 MS. CACACCIO: Yes, Judge.

8 JUDGE ROSAS: Overruled.

9 Q BY MS. CACACCIO: Who -- who was management at the door?

10 A Management at the door was Deanna and Kelly.

11 Q Okay. And what happened?

12 A When Michelle in particular tried to walk into the door,
13 Cassie kind of stayed back and -- and they protested Michelle's
14 entry. They told her that she was invited to the later session
15 and wouldn't be -- shouldn't be in attendance in this one.

16 Q Did you record this meeting?

17 A Yes, I did.

18 Q When did you start recording?

19 A I started recording at opening remarks and introductions.

20 Q Why did you record the meeting?

21 A I was really put off by the way that they did not let
22 Michelle attend the meeting, and that kind of raised my
23 suspicions.

24 Q Did you alter this recording in any way?

25 A No.

1 Q What did you do with the recording when you took it?

2 A I saved it to my iPhone, and then, I uploaded it to Google
3 Drive to share with the Union attorneys and Michelle.

4 Q Did you listen to the recording that's -- do you still
5 have that recording?

6 A Yes, I do.

7 Q Did you listen to it?

8 A Yes.

9 Q And was it altered in any way?

10 A No.

11 Q Did you look at a copy of the transcript for that
12 recording?

13 A Yes.

14 Q And what did you do with that transcript?

15 A I made small corrections to misspellings or
16 mistranscriptions.

17 Q And does the transcript match with your recording?

18 A Yes.

19 MS. CACACCIO: Your Honor, I offer General Counsel Exhibit
20 133(b).

21 MR. WHALEN: We have the same standing objection, Your
22 Honor.

23 JUDGE ROSAS: Over objection --

24 MS. CACACCIO: And -- and 133(a) too, Judge. Sorry.
25 That's the recording. The transcript's (b).

1 JUDGE ROSAS: The objection is overruled. General
2 Counsel's Exhibit 133(a) and 133(b) are received.

3 **(General Counsel Exhibit Numbers 133(a) and 133(b) Received**
4 **into Evidence)**

5 MS. CACACCIO: I have nothing further for this witness,
6 Judge.

7 JUDGE ROSAS: Charging Party?

8 MR. DOLCE: Nothing from Charging Party.

9 JUDGE ROSAS: Okay. Off the record.
10 (Off the record at 4:08 p.m.)

11 **CROSS-EXAMINATION**

12 Q BY MR. WHALEN: Good afternoon, Ms. Whitner (sic).

13 MS. CACACCIO: Wittmeyer

14 Q BY MR. WHALEN: My apologies. Good afternoon, Ms.
15 Wittmeyer.

16 A Good afternoon.

17 Q I just have a few questions for you. You began working
18 for Starbucks in late October 2021?

19 A I was hired in the end of September, but I started
20 actually working at my store in late October, yes.

21 Q And when you were hired, you were given a copy of the
22 partner guide; is that correct?

23 A Yes.

24 Q And you acknowledged receipt of the partner guide?

25 A Yes.



1 MS. CACACCIO: Objection. Relevance. This witness didn't
2 discuss anything.

3 JUDGE ROSAS: You mean, outside the scope?

4 MS. CACACCIO: That too.

5 MR. WHALEN: Your Honor, it goes to the --

6 JUDGE ROSAS: You -- you just going to go through the --
7 the basics? I'll allow that.

8 MS. CACACCIO: Okay.

9 Q BY MR. WHALEN: You -- you rec -- you acknowledged receipt
10 of that partner guide when you were first hired --

11 A Yes.

12 Q -- is that correct? You testified that you were given an
13 invitation -- a paper invitation to attend one listening
14 session, correct?

15 A Yes.

16 Q And you were told that you were encouraged to attend that
17 meeting --

18 A Yes.

19 Q -- correct? But you were never explicitly told that that
20 meeting was mandatory?

21 A I was told that it was -- number 1, it was paid, so that
22 was very encouraging, but I was told that my attendance was
23 expected there. Never that I would get in trouble if I didn't,
24 but heavily encouraged.

25 Q Sure. But my question was, you were never told that it

1 was mandatory to attend that meeting?

2 A No.

3 MR. WHALEN: Okay. I have no further questions.

4 JUDGE ROSAS: Any redirect?

5 MS. CACACCIO: No, Judge.

6 MR. DOLCE: Nothing from Charging Party.

7 JUDGE ROSAS: Thank -- thank you. Your testimony's
8 concluded. Please do not discuss your testimony with anyone
9 until you are advised otherwise by Counsel. All right?

10 THE WITNESS: Thank you.

11 JUDGE ROSAS: All right. Have a good day.

12 THE WITNESS: Thanks. You, too.

13 MS. CACACCIO: Judge, when Natalie leaves, we have
14 something else we should probably discuss on the record.

15 JUDGE ROSAS: Okay.

16 MS. CACACCIO: The Board order just came down with respect
17 to the Justin proffer evidence, denying Respondent's motion.
18 So that, at some point, may change the length of our case, but
19 I don't think it'll be that much.

20 MS. PENDER-STANLEY: Right. Might be a couple of days.

21 MS. CACACCIO: We'll have to talk about it, Alicia and I.

22 MS. POLITO: All I can say, Judge, is there's a discussion
23 that just came out. We have -- we need to review it and have
24 the opportunity to look at it. I don't have receipt of any
25 decision. I don't know what it means --

1 JUDGE ROSAS: They --

2 MS. POLITO: -- so talking about it right now seems a
3 little bit improper.

4 JUDGE ROSAS: They don't have anything to produce now
5 anyway, so everybody has time to absorb.

6 MS. PENDER-STANLEY: Yeah.

7 MS. CACACCIO: Yep.

8 JUDGE ROSAS: Okay. So off the record.

9 (Off the record at 4:12 p.m.)

10 JUDGE ROSAS: Go ahead.

11 MR. BALSAM: With respect to Ms. Norton's testimony, I
12 have an objection to the introduction of GC Exhibit 132, based
13 on the fact that it was not a complete copy. There was some
14 challenge, based on the improper suggestion that we did not
15 produce that document. I've confirmed that we have, in fact,
16 produced a full, complete copy of that document in question,
17 and I've requested it be substituted. Bates number for that
18 document --

19 MS. PENDER-STANLEY: What's the Bates number?

20 MR. WHALEN: -- is 56345635.

21 MS. PENDER-STANLEY: 56345635. All right. That's fine.
22 Like I said, I have no problem swapping them out.

23 MR. WHALEN: No, I -- I agree. I just wanted to make it
24 clear that we did, in fact, produce the document.

25 MS. PENDER-STANLEY: Oh.

1 JUDGE ROSAS: All right. They'll have to -- you'll
2 produce it and have it remarked tomorrow.

3 MS. PENDER-STANLEY: I will.

4 JUDGE ROSAS: Okay. If there's nothing else, we're
5 adjourning to tomorrow morning at 8:15 a.m. or so. We will be
6 advised further this evening.

7 MS. CACACCIO: Yes, Judge.

8 JUDGE ROSAS: Off the record.

9 **(Whereupon, the hearing in the above-entitled matter was**
10 **recessed at 4:13 p.m. until Friday, August 5, 2022 at 8:15**
11 **a.m.)**

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C E R T I F I C A T I O N

This is to certify that the attached proceedings before the National Labor Relations Board (NLRB), Region 3, Case Numbers 03-CA-285671, et al., Starbucks Corporation and Workers United, held at the National Labor Relations Board, Region 3, Robert H. Jackson United States Courthouse, 2 Niagara Square, Wyoming Courtroom, 5th Floor, Buffalo, New York 142202, on August 4, 2022, at 9:02 a.m. was held according to the record, and that this is the original, complete, and true and accurate transcript that has been compared to the reporting or recording, accomplished at the hearing, that the exhibit files have been checked for completeness and no exhibits received in evidence or in the rejected exhibit files are missing.


ELAINE LAROSEE

Official Reporter